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## Hamiltonian Constitutionalism Through the Ages: In Defense of Public Goods

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# HAMILTONIAN CONSTITUTIONALISM THROUGH THE AGES: IN DEFENSE OF PUBLIC GOODS

DR. CHARLES J. REID, JR.\*

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## I. INTRODUCTION

When one thinks of public goods, one's mind turns almost instinctually to the modern welfare state. To be sure, the modern state is charged with a host of responsibilities that were not on the minds – could not have been on the minds – of the Founding generation. The space program. The internet. The electrification of America. Ideas, inventions, ambitions, that were inconceivable in the world of 1789. The government played a role in fostering, encouraging, and developing these and countless other innovations over the last two hundred years.

Yet it is not true that the world of the Founders was devoid of a conception of public goods. It is wrong to think about the national government that was brought about at the Founding as some form of minimalist state, passive and decentralized. Quite the contrary, the age possessed richly developed plans and proposals for advancing the cause of public goods. In this essay, we shall consider one of the boldest proposals for an activist, interventionist federal government, Alexander Hamilton's Report on Manufactures.

## II. ALEXANDER HAMILTON

Who was Alexander Hamilton? The question calls out for a full-scale inquiry, but that temptation will be avoided. Still a few biographical facts are in order. Hamilton was born on the Caribbean Island of Nevis.<sup>1</sup> His parents at the time of his birth were living in a bigamous relationship, thus making Hamilton illegitimate under British law.<sup>2</sup> His father later abandoned the family and Hamilton's mother died when Alexander was thirteen.<sup>3</sup> Young Alexander spent his childhood and adolescence both in St. Croix, in the Virgin Islands, and on Nevis,<sup>4</sup> and went to work in a trading firm by the age of thirteen, where he handled ledgers and financial

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<sup>1</sup> Thomas H. Lee, *Natural Born Citizen*, 67 AM. UNIV. L. REV. 327, 345 (2017).

<sup>2</sup> Harold Larson, *Alexander Hamilton: The Fact and Fiction of His Early Years*, 9 WM. & MARY Q. 139, 144 (1952).

<sup>3</sup> Brooke Allen, *Alexander Hamilton: The Enlightened Realist*, 57 HUDSON REV. 497, 500 (2004).

<sup>4</sup> David McGowan, *Ethos in Law and History: Alexander Hamilton, the Federalist, and the Supreme Court*, 85 MINN. L. REV. 755, 763–64 (2001); Michael W. McConnell, *What Would Hamilton Do?* 35 HARV. J. L. & PUB. POL'Y 259, 262 (2012).

transactions.<sup>5</sup>

Hamilton came to the mainland as a teenager of around fifteen, spending time first in New Jersey and then in New York City.<sup>6</sup> He became involved in revolutionary activities as a college student as early as 1774 and 1775.<sup>7</sup> He distinguished himself as well in combat in the earliest phases of the Revolutionary War, including at the Battle of Princeton (January 1777).<sup>8</sup> He soon came to the attention of George Washington, and served as General Washington's chief aide for a period of four years.<sup>9</sup> He returned to a combat role in time to see action at the Battle of Yorktown (1781), the final significant battle of the Revolution.<sup>10</sup>

Following the Revolutionary War, Hamilton was admitted to the New York bar,<sup>11</sup> carried on an active legal practice,<sup>12</sup> and also served in a

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<sup>5</sup> Ann Mah, *The West Indian Island That Shaped Alexander Hamilton: Footsteps*, N.Y. TIMES (May 3, 2017), <https://www.nytimes.com/2017/05/03/travel/st-croix-virgin-islands-alexander-hamilton.html>.

<sup>6</sup> Leopold Launitz-Schurer, Jr., *A Loyalist Clergyman's Response to the Imperial Crisis in the American Colonies: A Note on Samuel Seabury's Letters of a Westchester Farmer*, 44 HIST. MAG. PROTESTANT EPISCOPAL CHURCH 107, 115–16 (1975) (on Hamilton's early pamphleteering efforts in 1774); THOMAS K. McCRAW, *THE FOUNDERS AND FINANCE: HOW HAMILTON, GALLATIN, AND OTHER IMMIGRANTS FORGED A NEW ECONOMY* 18–19 (2012).

<sup>7</sup> Thomas K. McCraw, *The Strategic Vision of Alexander Hamilton*, 63 AM. SCHOLAR 31, 35–36 (1994) (Hamilton participates in military drills and sees combat in 1775).

<sup>8</sup> MICHAEL E. NEWTON, *ALEXANDER HAMILTON: THE FORMATIVE YEARS* 182 (2015) (“In the Battle of Princeton, Alexander Hamilton reportedly fired his cannon at Nassau Hall, the main building at the College of New Jersey, the school that had rejected his request to learn at an accelerated pace”); *Id. Cf.* ALFRED A. WOODHULL, *THE BATTLE OF PRINCETON: A PRELIMINARY STUDY* 20 (1913) (providing further detail).

<sup>9</sup> Paul Finkelman, *Alexander Hamilton, Esq: Founding Father as Lawyer*, AM. BAR FOUND. RSCH. J. 229–31 (1984); Walter Russell Mead, *First Principals: Alexander Hamilton and the American Founders*, 83 FOREIGN AFF. 133, 133 (July-Aug., 2004).

<sup>10</sup> PAUL A.W. WALLACE, *THE MUHLENBERGS OF PENNSYLVANIA* 235–41 (1950).

<sup>11</sup> David P. Papke, *Alexander Hamilton as Attorney*, MARQ. UNIV. L. SCH. FAC. BLOG (Mar. 20, 2017), [law.marquette.edu/facultyblog/2017/03/alexander-hamilton-as-attorney](http://law.marquette.edu/facultyblog/2017/03/alexander-hamilton-as-attorney).

<sup>12</sup> 1 ALEXANDER HAMILTON ET AL., *THE LAW PRACTICE OF ALEXANDER HAMILTON: DOCUMENTS AND COMMENTARY* 37–54 (Julius Goebel, Jr. & Joseph Henry Smith eds., 1964).

variety of public roles. He was appointed receiver of taxes for the Continental Congress from New York in 1782, a responsibility that brought him into conflict with local officials who felt little loyalty to what passed for central government.<sup>13</sup> In 1782, he was also named a delegate to the Confederation Congress.<sup>14</sup> But by 1784, Hamilton had already resigned from the Congress to help in the founding of the Bank of New York.<sup>15</sup>

In 1787, Hamilton helped to organize and participated in the Constitutional Convention that led to the drafting of the United States Constitution.<sup>16</sup> And even though he had some misgivings about the Constitution's final form, he became one of its earliest and most vigorous exponents in his many essays which comprise the greater part of the Federalist Papers.<sup>17</sup>

When George Washington was unanimously elected the first President of the United States, he appointed Alexander Hamilton as the Secretary of the Treasury. Charles Franklin Dunbar, the nineteenth-century economic writer, has well-captured the responsibilities Hamilton viewed this office as encompassing.<sup>18</sup> Hamilton regarded himself as "more nearly like that of an English Chancellor of the Exchequer."<sup>19</sup> He was responsible not only for federal revenue and for the federal budget, but for communicating with the Congress George Washington's legislative agenda,

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<sup>13</sup> Michael P. Schoderbek, *Robert Morris and Reporting for the Treasury Under the U.S. Continental Congress*, 26 ACCT. HISTORIANS J. 1, 14–15 (1999).

<sup>14</sup> Emory Speer, *Alexander Hamilton*, 16 YALE L. J. 94, 103 (1906–1907).

<sup>15</sup> RICHARD SYLLA & DAVID J. COWAN, ALEXANDER HAMILTON ON FINANCE, CREDIT, AND DEBT 60 (2018); Robert E. Mensel, *Nothings into Something: Intrinsic Value and Counterfeit Money in Antebellum Law and Culture*, 37 OHIO N. L. REV. 111, 130 (2011) ("The charter of the Bank of New York was penned by Hamilton himself"); *Id.*

<sup>16</sup> Edward J. Larson, *Building a Nation from Thirteen States: The Constitutional Convention and Preemption*, 33 PEPP. L. REV. 7, 9 (2005) (it was Hamilton who "initiated" the call "for the states to send delegates to Philadelphia in 1787 to devise revisions for the Articles [of Confederation]"); *Id. Cf.* Louis Ottenberg, *The Annapolis Convention of 1786*, 45 A.B.A. J. 834, 877–78 (1959) (providing further details on Hamilton's leading role in organizing the Constitutional Convention).

<sup>17</sup> Gottfried Dietze, *Hamilton's Federalist Treatise for Free Government*, 42 CORNELL L. Q. 307–28 (1957).

<sup>18</sup> Charles F. Dunbar, *Some Precedents Followed by Alexander Hamilton*, 3 Q. J. ECON. 32–59 (1888).

<sup>19</sup> *Id.* at 32.

insofar as it pertained to the financial well-being of the new Republic.<sup>20</sup>

In keeping with this exalted self-understanding, Hamilton's financial/legislative proposals to Congress in the first years of the Republic were vast and ambitious. There was, first, the Report on Public Credit of 1790, intended to address the debt crisis of the 1780s.<sup>21</sup> Both the states and the central government had accumulated large debts during the Revolutionary War and in its aftermath that seemed to many to be unpayable.<sup>22</sup> Hamilton's Report proposed a plan – the adoption of which required much negotiation and compromise<sup>23</sup> – to reduce this debt and to establish the American nation on a sound fiscal footing.<sup>24</sup>

The second major proposal Hamilton advanced in that propitious year of 1790 was for the establishment of a national bank – the Bank of the United States. Hamilton understood that banks were not merely storehouses – places where clients and customers warehoused their money – but indispensable drivers of credit creation and monetary expansion.<sup>25</sup> And by bringing borrowers and lenders together in exchange relationships, “the

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<sup>20</sup> *Id.* at 32–33.

<sup>21</sup> Janet A. Riesman, *Money, Credit, and Federalist Political Economy*, in BEYOND CONFEDERATION: ORIGINS OF THE CONSTITUTION AND AMERICAN NATIONAL IDENTITY 128, 131–32 (Richard Beeman et al., eds. 1987); Michael D. Bordo et al., *How Original Sin Was Overcome: The Evolution of External Debt Dominated in Domestic Currencies in the United States and the British Dominions, 1800–2000*, in OTHER PEOPLE'S MONEY: DEBT DENOMINATION AND FINANCIAL INSTABILITY IN EMERGING ECONOMIES 122, 125 (Barry Eichengreen & Ricardo Hausman, eds., 2005); PAULINE MAIER, RATIFICATION: THE PEOPLE DEBATE THE CONSTITUTION, 1787–1788 224 (2010); HANNAH FARBER, UNDERWRITERS OF THE UNITED STATES: HOW INSURANCE SHAPED THE AMERICAN FOUNDING 87 (2021).

<sup>22</sup> SARAH L. QUINN, AMERICAN BONDS: HOW CREDIT MARKETS SHAPED A NATION 23 (2019).

<sup>23</sup> Jacob E. Cooke, *The Compromise of 1790*, 27 WM. & MARY Q. 523–45 (1970); Norman K. Risjord, *The Compromise of 1790: New Evidence on the Dinner Table Bargain*, 33 WM. & MARY Q. 309–314 (1976).

<sup>24</sup> Max M. Edling, “So Immense a Power in the Affairs of War:” *Alexander Hamilton and the Restoration of Public Credit*, 64 WM. & MARY Q. 287, 290 (3d ser., 2007) (“Hamilton’s report and the subsequent funding act aimed to modernize American public finances by introducing contemporary European practices of debt management. . . . Though controversial the reform was successful in rapidly restoring public credit”); *Id.*

<sup>25</sup> DOUGLAS AMBROSE & ROBERT W.T. MARTIN, THE MANY FACES OF ALEXANDER HAMILTON: THE LIFE AND LEGACY OF AMERICA’S MOST ELUSIVE FOUNDING FATHER 213–19 (2006).

bank would be the heart of the monetary and financial system.”<sup>26</sup> The congressional debate over authorizing a charter for Hamilton’s Bank of the United States occasioned what has been called “America’s First Great Constitutional Controversy.”<sup>27</sup> It also prompted Hamilton to write a strong defense of the Bank’s constitutionality which had the effect of injecting into constitutional discourse terms and ideas still in currency today, such as “implied powers” and the sovereign status of the federal government.<sup>28</sup>

Third, there was the Report on the United States Mint, which was conveyed to Congress in January 1791.<sup>29</sup> Coinage in the United States was in a disorderly state. British currency continued to circulate in the new United States, as did Spanish currency.<sup>30</sup> Various states had also issued paper currency.<sup>31</sup> Hamilton firmly established the dollar as the sole acceptable monetary unit of exchange,<sup>32</sup> and persuaded Congress that its value be set in a complex relationship with silver and with gold.<sup>33</sup>

### III. THE AMERICAN ECONOMY OF 1791

Alexander Hamilton submitted his Report on Manufactures to

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<sup>26</sup> SYLLA & COWAN, *supra* note 15, at 119.

<sup>27</sup> Charles J. Reid, Jr., *America’s First Great Constitutional Controversy: Alexander Hamilton’s Bank of the United States*, 14 UNIV. ST. THOMAS L. J. 105–92 (2018).

<sup>28</sup> *Id.* at 184–191; McCraw, *supra* note 7, at 118; Robert J. Reinstein, *The Aggregate and Implied Powers of the United States*, 69 AM. UNIV. L. REV. 3, 9–10 (2019); Michael Coblenz, *The Fight Goes on Forever: “Limited Government” and the First Bank of the United States*, 39 S. ILL. UNIV. L. J. 391, 435–38 (2015); James Willard Hurst, *Alexander Hamilton, Law Maker*, 78 COLUM. L. REV. 483, 496–98 (1978).

<sup>29</sup> Alexander Hamilton, *Final Version of the Report on the Establishment of a Mint*, FOUNDERS ONLINE (Jan. 28, 1791), <https://founders.archives.gov/documents/Hamilton/01-07-02-0334-0004>.

<sup>30</sup> *Id.*

<sup>31</sup> George William Van Cleve, *The Anti-Federalists’ Toughest Challenge: Paper Money, Debt Relief, and the Ratification of the Constitution*, 34 J. EARLY REPUBLIC 529, 534–45 (2014); *See generally* Mary M. Schweitzer, *State-Issued Currency and the Ratification of the U.S. Constitution*, 49 J. ECON. HIST. 311–22 (1989).

<sup>32</sup> Robert Garson, *The US Dollar and American Nationhood: 1781–1820*, 35 J. AM. STUD. 21, 34 (2001).

<sup>33</sup> WILLIAM L. SILBER, *THE STORY OF SILVER: HOW THE WHITE METAL SHAPED AMERICA AND THE MODERN WORLD* 10 (2019).

Congress in December 1791.<sup>34</sup> Of all of his Reports, this was the only one upon which Congress took no immediate action.<sup>35</sup> It was also likely prepared in collaboration with Hamilton's Assistant Secretary of the Treasury, Tench Coxe.<sup>36</sup> Still, as will be evident, it was a Report that would exert a strong afterlife. But before we consider its impact, one should examine the economic conditions that prevailed in the United States at the time of the Report's submission to Congress.

Those conditions were pervasively agricultural. In 1784, Benjamin Franklin wrote, with only a little hyperbole, that in the new American nation "[f]or one artisan, or merchant, I suppose, we have at least one hundred farmers."<sup>37</sup> Just a few years later, "[i]n the 1790s," it has been estimated, that "80 percent of all gainfully employed workers were in the countryside."<sup>38</sup> The agricultural sector, furthermore, was growing. In the period 1775 to 1790, "the rural population increas[ed] approximately forty percent," while the urban population grew by "only three percent."<sup>39</sup>

Leaving to one side the large southern plantations, most of the farming that was done at the time of the Founding, furthermore, was "small-scale."<sup>40</sup> Was this subsistence farming? There was a time when the answer seemed clear that it was.<sup>41</sup> That idea, however, has been effectively challenged in the scholarly literature.<sup>42</sup> Where once bright lines seemed to

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<sup>34</sup> SONGHO HA, *THE RISE AND FALL OF THE AMERICAN SYSTEM: NATIONALISM AND THE DEVELOPMENT OF THE AMERICAN ECONOMY, 1790–1837* 18 (2009).

<sup>35</sup> DOUGLAS A. IRWIN, *CLASHING OVER COMMERCE: A HISTORY OF US TRADE POLICY* 83 (2017).

<sup>36</sup> JACOB E. COOKE, *TENCH COXE AND THE EARLY REPUBLIC 182–200* (1978); Bernard Mason, *Alexander Hamilton and the Report on Manufactures: A Suggestion*, 32 PA. HIST.: J. MID-ATL. STUD. 288–94 (1965).

<sup>37</sup> Benjamin Franklin, *The Internal State of America*, in *MEMOIRS OF THE LIFE AND WRITINGS OF BENJAMIN FRANKLIN*, L.L.D. 267, 268 (William Temple Franklin ed., 1818).

<sup>38</sup> HENRY HOBHOUSE, *FORCES OF CHANGE: AN UNORTHODOX VIEW OF HISTORY* 160 (2005).

<sup>39</sup> R. DOUGLAS HURT, *AGRICULTURE: A BRIEF HISTORY* 83 (1994).

<sup>40</sup> Robert E. Mutch, *Colonial America and the Debate About Transition to Capitalism*, 9 THEORY & SOC'Y 847–48 (1980).

<sup>41</sup> CAROLYN MERCHANT, *ECOLOGICAL REVOLUTION: NATURE, GENDER, AND SCIENCE IN NEW ENGLAND* 318–20 (2nd ed. 2010).

<sup>42</sup> Allan Kulikoff, *The Transition to Capitalism in Rural America*, 46 WM. & MARY Q. 120, 121–22 (1989); James Henrietta, *Families and Farms: Mentalité in Pre-Industrial America*, 35 WM. & MARY Q. 3, 16–20 (1978).



exist between subsistence farming and larger operations, scholars now appreciate the difficulties in drawing sharp distinctions between producing primarily to meet one's own needs in contrast to commercial production.<sup>43</sup> It is now appreciated that farmers engaged in considerable levels of market exchange "in the transmission of goods and services."<sup>44</sup> The demands of survival, if nothing else, required frequent exchange with others. "[A]vailable studies suggest that self-sufficiency of colonial farm families – even those living in relatively remote interior regions – has been greatly exaggerated: most lacked the means for complete independence."<sup>45</sup>

However, one finally characterizes the agricultural practices of the 1780s, our point remains: Farming was a major – indeed, a preeminent – economic activity in the new American Republic. But this is not to say that there were no other forms of economic activity in the new United States. There was also small-scale manufacturing, much of it centered in homes or in family workshops.<sup>46</sup> Textiles were commonly manufactured at home – clothing, blankets, carpets, even the linen broadcloths required for ships' sails.<sup>47</sup> Soap was another product frequently made at home.<sup>48</sup>

The United States, furthermore, had several urban centers of note. New York was the most populous city, with a population of a little more than 33,000.<sup>49</sup> Philadelphia was close to comparable in size, with a

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<sup>43</sup> Richard Lyman Bushman, *Markets and Composite Farms in Early America*, 55 WM. & MARY Q. 351–74 (1998).

<sup>44</sup> CHRISTOPHER CLARK, *THE ROOTS OF RURAL CAPITALISM: WESTERN MASSACHUSETTS, 1780–1860* 13 (1990).

<sup>45</sup> RUSSELL R. MENARD, *THE ECONOMY OF BRITISH AMERICA: 1607–1789* 301 (1991).

<sup>46</sup> Much of this activity fell under the rubric of "putting out," described by one text: "[The traditional 'putting out' system flourished. Unattached young people and underemployed tradesmen of cities transported cotton, leather, timber, or flax to homes where women and children processed the raw materials into semi-finished goods and received small extra earnings for their families." CATHY MASON, *RISKY BUSINESS: WINNING AND LOSING IN THE EARLY AMERICAN ECONOMY, 1780–1850* 27 (2003).

<sup>47</sup> Thomas S. Wermuth, *New York Farmers and the Market Revolution: Economic Behavior in the Mid-Hudson Valley, 1780-1830*, 32 J. SOC. HIST. 179, 181–82 (1998); ROLLA MILTON TRYON, *HOUSEHOLD MANUFACTURES IN THE UNITED STATES, 1640–1860* 203–04 (1966).

<sup>48</sup> Paul A. Laux et al., *Soap and Detergent*, in 2 EXTRACTIVES, MANUFACTURING, AND SERVICES: A HISTORIOGRAPHICAL AND BIBLIOGRAPHICAL GUIDE 218, 218–19 (David O. Whitten & Bessie E. Whitten eds., 1997).

<sup>49</sup> IRA ROSENWAIKE, *POPULATION HISTORY OF NEW YORK CITY* 16

population according to the 1790 census of 28,522<sup>50</sup> (or 44,000, if one counted a somewhat larger suburban area).<sup>51</sup> Boston's population in 1790 was calculated at 18,320.<sup>52</sup> Baltimore in the 1780s had a population of around 13,500.<sup>53</sup> These cities, taken in common, were port cities, and it was the case that port cities enjoyed more rapid economic growth.<sup>54</sup> Thus each of these cities was characterized by various forms of manufacture, and by laborers who dominated the workforce in these locations.<sup>55</sup>

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(1972).

<sup>50</sup> Michael C. LeMay, *Mushrooming Cities: Immigration and the Beginnings of Urbanization, 1790-1865*, in TRANSFORMING AMERICA: PERSPECTIVES ON U.S. IMMIGRATION 47, 56 (Michael C. LeMay ed., 2013). Cf. SAM BASS WARNER, *THE PRIVATE CITY: PHILADELPHIA IN ITS THREE PERIODS OF GROWTH* 245 (2nd ed. 1968) (estimating Philadelphia's population at between 23,000 and 25,000 earlier in 1780s); cf. John K. Alexander, *The Philadelphia Numbers Game: An Analysis of Philadelphia's Eighteenth-Century Population*, 98 PA. MAG. HIST. & BIOGRAPHY 314–324 (1974) (critically evaluating Bass Warner's numbers).

<sup>51</sup> Simeon J. Crowther, *Urban Growth in the Mid-Atlantic States, 1785-1850*, 36 J. ECON. HIST. 624, 629 (1976).

<sup>52</sup> Frederick Bushee, *The Growth of the Population of Boston*, 6 PUBLICATIONS OF THE AMERICAN STATISTICAL ASSOCIATION 239, 245 (1899).

<sup>53</sup> SETH ROCKMAN, *SCRAPING BY: WAGE LABOR, SLAVERY, AND SURVIVAL IN EARLY BALTIMORE* 27 (2009).

<sup>54</sup> BRIAN GREENBERT, *THE DAWNING OF AMERICAN LABOR: THE NEW REPUBLIC TO THE INDUSTRIAL AGE* 12 (2017).

<sup>55</sup> The Boston workforce in 1790 was dominated by master craftsmen, although a rapid transition was even then underway to a workforce featuring journeymen and wage laborers. See CHRISTOPHER L. TOMLINS, *LAW, LABOR, AND IDEOLOGY IN THE EARLY AMERICAN REPUBLIC* 111 (1993); among the trades accounted for were bakers, blacksmiths, mariners, tailors, and others. Allan Kulikoff, *The Progress of Inequality in Revolutionary Boston*, 28 WM. & MARY Q. 375, 396–97 (1971). Philadelphia, similarly, featured a wide variety of trades and a significant number of autonomous craftsmen ready to take advantage of opportunities for growth. DONNA J. RILLING, *MAKING HOUSES, CRAFTING CAPITALISM: BUILDERS IN PHILADELPHIA, 1790–1850* 1–5 (2001); Sean Wilentz, *Artisanal Origins of the American Working Class*, 19 INT'L LAB. & WORKING-CLASS HIST. 1, 14–15 (1981). In New York, in the late eighteenth century, “master craftsmen and their journeymen employees [were] the largest group of working people.” SEAN WILENTZ, *CHANTS DEMOCRATIC: NEW YORK CITY AND THE RISE OF THE AMERICAN WORKING CLASS, 1788–1850* 27 (1984). Again, a wide variety of trades were represented. Howard B. Rock, “*All Her Sons Join as One Social Band: New York City's Artisanal Societies in the Early Republic*,” in AMERICAN ARTISANS: CRAFTING SOCIAL IDENTITY, 1750–1850 150, 160–62 (Howard B. Rock et al. eds., 1995). Baltimore also featured a number of artisan groups. CHARLES J. STEFFEN, *THE MECHANICS OF BALTIMORE: WORKERS AND POLITICS IN THE AGE OF*

Aside from manufacturing, finally, the United States was rich in raw materials. Fishing, whaling, and sealing had become important enterprises in New England.<sup>56</sup> Pennsylvania coal had been mined as early as the 1770s, in support of the Revolutionary War.<sup>57</sup> Iron was being extracted up and down the spine of the new nation, from New England to Maryland, as early as the 1790s.<sup>58</sup> Economic conditions, however, were hardly healthy. Income had declined in the 1780s, inflation had taken a further heavy toll, and the newly independent colonies faced conditions that have been described as a “deep depression.”<sup>59</sup>

If the United States of 1790 was largely agricultural, if the manufacturing and extraction industries were still in their infancies, it was also the case that the American economy was intensely regional. The New England economy differed from New York, which differed again from the mid-Atlantic states of Pennsylvania, New Jersey, and Maryland. The South – with its slave-based plantation economy – posed its own set of issues, moral of course, as well as economic, as did the rapidly-filling western frontier.

Scholarship on Hamilton’s Report on Manufactures recurrently emphasizes his national vision. And there is certainly truth in those claims. Hamilton feared fragmentation above all things, and believed that only a tightly bound union could forestall the new nation from descending into a series of anarchic regional wars.<sup>60</sup> Working collaboratively with Tench

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REVOLUTION, 1763–1812 102–20 (1984).

<sup>56</sup> SAMUEL ELIOT MORISON, *THE MARITIME HISTORY OF NEW ENGLAND, 1783–1860* 134–50 (1921); OBED MACY, *THE HISTORY OF NANTUCKET* 142 (2nd ed. 1880); Daniel Vickers, *The First Whalemen in Nantucket*, 40 *WM. & MARY Q.* 560, 565–70 (1983); Nathaniel Philbrick, *How Nantucket Came to Be the Whaling Capital of the World*, *SMITHSONIAN MAG.* (Dec. 2015) [smithsonianmag.com/history/nantucket-came-to-be-whaling-capital-of-world-180957198/](http://smithsonianmag.com/history/nantucket-came-to-be-whaling-capital-of-world-180957198/).

<sup>57</sup> Carl E. Zipper et al., *The Appalachian Coalfield in Historical Context*, in *APPALACHIA’S COAL-MINED LANDSCAPES: RESOURCES AND COMMUNITIES IN A NEW ENERGY ERA* 1, 11 (Carl E. Zipper & Jeff Skousen eds., 1st ed. 2021); H.H. STOEK, *THE PENNSYLVANIA ANTHRACITE COAL FIELD* 74–75 (1902).

<sup>58</sup> ROBERT B. GORDON, *AMERICAN IRON, 1607–1900* 27–30 (1996).

<sup>59</sup> Peter H. Lindert & Jeffrey G. Williamson, *American Incomes Before and After the Revolution*, 73 *J. ECON. HIST.* 725, 753 (2013).

<sup>60</sup> *E.g.*, *THE FEDERALIST PAPERS* NO. 6 (Alexander Hamilton) (“it has from long observation of the progress of society become a sort of axiom in politics, that vicinity or nearness of situation, constitutes nations natural enemies”) *Id. Cf.*, *FEDERALIST PAPERS* NO. 7 (Alexander Hamilton) (“Territorial disputes have at all

Coxe, Hamilton had done careful investigation of the American economy's regional variations, and he knew well how tenuously it was held together.<sup>61</sup> The Report on Manufactures was meant to accomplish nothing less than to forge enduring bonds of national unity in the face of two great enemies – domestic fragmentation and foreign domination.

#### IV. PHYSIOCRACY AND AGRARIANISM

It comes as a surprise to readers to discover that the opening section of Hamilton's Report on Manufactures reads less like an economic treatise than a philosophical discourse speculating on the nature of the true sources of wealth and the proper duties of the state. In fact, Hamilton was countering a related set of powerful economic/political/philosophical movements that are known today sometimes as physiocracy and sometimes as agrarianism.

Physiocracy, in its origins, was French. François Quesnay (1694-1774) is often considered the movement's founder. Quesnay, although born to humble circumstances,<sup>62</sup> had already established his reputation as a leading physician at the Court of Versailles by the time he turned his thoughts to social and economic organization in his early sixties.<sup>63</sup> In his Tableau économique (1758) he sought to identify the one true source of wealth. As much philosopher as economist, Quesnay wrote that the natural law<sup>64</sup> taught that agriculture must be primary.<sup>65</sup> "Needs," he argued, "[were]

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times been found one of the most fertile sources of hostility among nations. Perhaps the greatest proportion of wars that have desolated the earth have sprung from this origin. This cause would exist among us in full force") *Id.*

<sup>61</sup> See generally Jacob E. Cooke, *Tench Coxe, Alexander Hamilton, and the Encouragement of American Manufactures*, 32 WM. & MARY Q. 369–92 (1975).

<sup>62</sup> DAN EDELSTEIN, ON THE SPIRIT OF RIGHTS 74 (2019) (“[Quesnay’s] origins were extremely humble; his father was a farmer and small landowner who did not tend much to the education of his thirteen children. François only learned to read at age eleven”) *Id.*

<sup>63</sup> Christine Théré & Loïc Charles, *The Writing Workshop of François Quesnay and the Making of Physiocracy*, 40 HIST. POL. ECON. 1, 3–8 (2008).

<sup>64</sup> KURT MITTERMAIER, THE HAND BEHIND THE INVISIBLE HAND: DOGMATIC AND PRAGMATIC VIEWS ON FREE MARKETS AND THE STATE OF ECONOMIC THEORY 32 (2020) (describing the Physiocrats as “natural-law fundamentalists”). *Cf.* Thomas P. O’Neill, *The Physiocrats’ Concept of Economics*, 63 Q. J. ECON. 532–37 (1949) (“The Physiocrats, then, thought that they had discovered a new science, that it was an elucidation of natural law, and that its

satisfied by natural goods: food, shelter, and clothing.”<sup>66</sup> Agriculture, and only agriculture, could meet these human requirements.<sup>67</sup>

Quesnay had been raised as a farmer’s son, and the question can be legitimately asked, was he led to these conclusions by a desire to valorize his early life, and to impart to it some greater meaning? Or was it the case, rather, that an early life spent close to the soil bestowed on him insights that his more urbane contemporaries, born in wealthier, nobler circumstances, where questions of survival never intruded, could not have known?<sup>68</sup> And if biography sheds insight on one’s future course, it may even pay to compare Quesnay, the farmer’s son, with Hamilton, the abandoned adolescent who kept the books in a Caribbean trading firm. The child, in each case, may well be said to be father to the man.

Quesnay, one can suppose, had a persuasive, authoritative way about him, in light of the followers he was able to attract.<sup>69</sup> For Quesnay and his fellow physiocrats, it was a matter of both logical deduction and empirical observation that all economic activity was premised – had to be premised – on agriculture.<sup>70</sup> Life required sustenance, and sustenance came from the soil.<sup>71</sup> This was a matter of logical deduction and a first principle of natural law for the physiocrats.<sup>72</sup> Indeed, the very name “physiocracy” was adopted from the Greek expression for the “rule of nature.”<sup>73</sup>

At its rudest level, agriculture was a matter of subsistence and

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scope extended to all of man’s dealing with man and with nature”).

<sup>65</sup> Stephen F. Gudeman, *Physiocracy: A Natural Economics*, 7 AM. ETHNOLOGIST 240, 245 (1980) (“According to Physiocratic thought, agriculture was almost the only activity which yielded an output that was in excess of its input”). *Id.* at 245.

<sup>66</sup> Gustav Schachter, *Francois Quesnay: Interpreters and Critics Revisited*, 50 AM. J. ECON. & SOCIO. 313, 315–16 (1991).

<sup>67</sup> W.A. Eltis, *Francois Quesnay: A Reinterpretation. I. The Tableau économique*, 27 OXFORD ECON. PAPERS 167, 169 (1975).

<sup>68</sup> Christine Théré & Loïc Charles, *François Quensay: A ‘Rural Socrates’ in Versailles?*, 39 HIST. POL. ECON. 195, 199–203 (2007).

<sup>69</sup> T.J. Hochstrasser, *Physiocracy and the Politics of Laissez-faire*, in THE CAMBRIDGE HISTORY OF EIGHTEENTH-CENTURY POLITICAL THOUGHT 419, 426 (Mark Goldie & Robert Wokler eds., 2006).

<sup>70</sup> BERNADETTE ANDREOSSO-O’CALLAGHAN, THE ECONOMICS OF EUROPEAN AGRICULTURE 5 (2003).

<sup>71</sup> DAVID E. O’CONNOR, DECIPHERING ECONOMICS: TIMELY TOPICS EXPLAINED 13 (2014).

<sup>72</sup> ERIK ANGNER, HAYEK AND NATURAL LAW 35 (2007).

<sup>73</sup> Gudeman, *supra* note 65, at 240.

survival. But the physiocrats were convinced that grim necessities of survivalism were not the fate of humankind if one merely followed certain foundational natural laws. Foremost among them was the recognition that only agriculture could produce a surplus of wealth.<sup>74</sup> This insight was then transferred to thinking about the state. Quesnay and others argued that “the net national product could be formed solely from agriculture.”<sup>75</sup>

This insight led to the further claim that manufacturing and trade were parasitic on agriculture. They were, in the physiocratic vocabulary “sterile” activities.<sup>76</sup> They were not themselves the source of wealth, but rather were dependent on a healthy agricultural sector for their flourishing.<sup>77</sup> To be sure, the physiocrats were not opposed to manufacturing.<sup>78</sup> They were by no means prepared to abandon cities and retreat to rural redoubts. What they wanted to make clear, however, was that there was a hierarchical ordering to the economy and that agriculture had to be placed at the apex.<sup>79</sup>

The physiocratic belief in the primacy of agriculture led to certain further propositions. It was good, they maintained, to promote and support agriculture at scale.<sup>80</sup> Quesnay had conducted empirical studies and he argued with detailed proofs that horses and oxen should work the land, not peasants equipped with hoes and scythes.<sup>81</sup> Wealthy farmers, in other words, were to be preferred to poor farmers, because the return on their

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<sup>74</sup> Eltis, *supra* note 67, at 169.

<sup>75</sup> Ryuzo Kuroki, *Turgot: A Successor to Quesnay and a Forerunner of Smith*, in THE FOUNDATIONS OF POLITICAL ECONOMY AND SOCIAL REFORM: ECONOMY AND SOCIETY IN EIGHTEENTH-CENTURY FRANCE 95, 98 (Ryuzo Kuroki & Yusuke Ando eds., 2018).

<sup>76</sup> GIANNI VAGGI, DEVELOPMENT: THE RE-BALANCING OF ECONOMIC POWERS 81 (2018).

<sup>77</sup> DAVID PAUL SCHAFER, REVOLUTION OR RENAISSANCE? MAKING THE TRANSITION FROM AN ECONOMIC AGE TO A CULTURAL AGE 12 (2008).

<sup>78</sup> SAMUEL HOLLANDER, CLASSICAL ECONOMICS 52 (Toronto, 1992) (“For Quesnay, the key to growth lay in the accumulation of capital. . . . The source of new capital was identified in the community’s disposable wealth.”).

<sup>79</sup> Michael Kwass, ‘*Le Superflu, Chose Très Nécessaire: Physiocracy and Its Discontents in the Eighteenth-Century Luxury Debate*, in THE ECONOMIC TURN: RECASTING POLITICAL ECONOMY IN ENLIGHTENMENT EUROPE 117, 120–21 (Steven L. Kaplan & Sophus A. Reinert eds., 2019).

<sup>80</sup> STEVEN G. MEDEMA, THE HESITANT HAND: TAMING SELF-INTEREST IN THE HISTORY OF ECONOMIC IDEAS 17 (2009).

<sup>81</sup> Eltis, *supra* note 67, at 174; Gustav Schachter, *Francois Quesnay: Interpreters and Critics Revisited*, 50 AM. J. ECON. & SOC. 313, 316 (1991).

production was greater.<sup>82</sup>

The government, the physiocrats continued, should be charged with the responsibility of ensuring that the system worked as conceived. Although it has often been said that Quesnay was an advocate for limited government,<sup>83</sup> in fact, he argued that government bore a number of affirmative responsibilities.<sup>84</sup> One sees this plainly in the maxims he formulated to guide governmental decision-making.<sup>85</sup> Government, he asserted, should “be concerned only with encouraging productive expenditure.”<sup>86</sup> “[T]he sovereign and the nation should never lose sight of the fact that the land is the unique source of wealth.”<sup>87</sup> “Men, land, and cattle are the primitive wealth of a great state,” wrote Quesnay in his article ‘Fermiers,’ written for the *Encyclopédie* in 1756.<sup>88</sup> It belonged to government to build wealth from these raw materials.

Quesnay and his disciples, however, were not convinced that governments would always make the difficult decisions that physiocratic principles demanded,<sup>89</sup> and so they argued that the government must be strictly supervised by a judiciary prepared to keep government properly

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<sup>82</sup> DAVID McNALLY, *POLITICAL ECONOMY AND THE RISE OF CAPITALISM: A REINTERPRETATION* 119–20 (1988).

<sup>83</sup> Robert Sparling, *Wealth and Corruption: Eighteenth-Century Social and Economic Thought in Four Scandals*, in *THE CAMBRIDGE COMPANION TO EIGHTEENTH-CENTURY THOUGHT* 182, 198 (Frans de Bruyn ed., 2021).

<sup>84</sup> Thus, Quesnay wrote approvingly of what he perceived to be the activist tendencies of the Chinese government. WEI-BIN ZHANG, *ADAM SMITH AND CONFUCIUS: THE THEORY OF SENTIMENTS AND THE ANALECTS* 27 (2000) (“Quesnay admired the rational principle of the Chinese constitution. In particular, he greatly admired the education system in China which helped the state select talented people for public service through a rigorous program of study and a competitive examination system”).

<sup>85</sup> Francois Quesnay, *The ‘General Maxims for the Economic Government of an Agricultural Kingdom,’* in *THE ECONOMICS OF PHYSIOCRACY: ESSAYS AND TRANSLATIONS* 231–38 (1962).

<sup>86</sup> *Id.* at 233 (Quoting Quesnay).

<sup>87</sup> *Id.* at 232 (Quoting Quesnay).

<sup>88</sup> ROSAMOND HOOPER-HAMERSLEY, *THE HUNT AFTER JEANNE-ANTOINETTE DE POMPADOUR: PATRONAGE, POLITICS, ART, AND THE FRENCH ENLIGHTENMENT* 321 (2011).

<sup>89</sup> Steven L. Kaplan, *Physiocracy, the State, and Society: The Limits of Disengagement*, in *COMPARATIVE THEORY AND POLITICAL EXPERIENCE: MARIO EINAUDI AND THE LIBERAL TRADITION* 23, 25–26 (Peter Katzenstein et al. eds., 1990).

directed and focused.<sup>90</sup> Extravagant expenditures on luxury goods should be avoided,<sup>91</sup> while wealth should be widely and fairly distributed.<sup>92</sup> The physiocrats were not anti-tax, but favored a system of limited, proportionate taxation that protected especially productive agricultural lands.<sup>93</sup> The objective, in the end, was the creation and maintenance of a healthy French state, governed by a firm but enlightened monarch,<sup>94</sup> internally prosperous, and safe from external foes.<sup>95</sup>

One of the most thought-provoking summaries of physiocratic accomplishments comes from the New-Deal era economic historian Max Beer who stressed the physiocrats' desire to achieve an almost traditional, "pre-industrial" economic order.<sup>96</sup> They "yok[ed] together most modern and strictly medieval doctrines."<sup>97</sup> There was a moral content to their message, Beer averred, a belief in "equality of exchanges, just prices, [and] commutative justice."<sup>98</sup> "[I]t is the greatness of Quesnay and his followers,"

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<sup>90</sup> MARIO EINAUDI, *THE PHYSIOCRATIC DOCTRINE OF JUDICIAL CONTROL* 40–41 (1938) (the judiciary must be specially trained in principles of natural law to ensure that government remains committed to physiocratic principles).

<sup>91</sup> Sarah Maza, *Luxury, Morality, and Social Change: Why There Was No Middle-Class Consciousness in Prerevolutionary France*, in *THE FRENCH REVOLUTION: RECENT DEBATES AND NEW CONTROVERSIES* 113, 118 (Gary Kates ed., 2nd ed. 2006); ANOUSH FRASER TERJANIAN, *COMMERCE AND ITS DISCONTENTS IN EIGHTEENTH-CENTURY FRENCH POLITICAL THOUGHT* 33 (2013).

<sup>92</sup> Alain Clément & Riccardo Soliani, *The Work of Nicolas Baudeau: Original and Unappreciated Thought*, 56 *HIST. ECON. REV.* 29, 42 (2012).

<sup>93</sup> Warren J. Samuels, *The Physiocratic Theory of Property and State*, 96 *Q. J. ECON.* 96, 104–108 (1961).

<sup>94</sup> PASCHALIS M. KITROMILIDES, *ENLIGHTENMENT AND REVOLUTION* 117–18 (2013); LUKE GOODE, *JÜRGEN HABERMAS: DEMOCRACY AND THE PUBLIC SQUARE* 12 (2005). The monarchy, Quesnay asserted, might be despotic, but that despotism must always be exercised on behalf of "its mission as guardian of the natural order" ("à sa mission de gardien d'un ordre naturel"). Bernard Herencia, "L'optimum gouvernemental des physiocrates: despotisme légal ou despotisme légitime?" *REVUE DE PHILOSOPHIE ÉCONOMIQUE* 119, 134 (2013).

<sup>95</sup> MARIA BROUWER, *GOVERNMENTAL FORMS AND ECONOMIC DEVELOPMENT: FROM MEDIEVAL TO MODERN TIMES* 100 (2016). ("Above the mass of identical individuals stood a single person, who was personally responsible for everything without a need for consultation. The market economy, in the physiocrat view, was subject to the will of the monarch, who pursued the common good"); Warren J. Samuels, *The Physiocratic Theory of Economic Policy*, 76 *Q. J. ECON.* 145, 155–160 (1962).

<sup>96</sup> MAX BEER, *AN INQUIRY INTO PHYSIOCRACY* 13 (1939).

<sup>97</sup> *Id.* at 16.

<sup>98</sup> *Id.*



Beer concluded, “that they re-erected the foundation of human solidarity.”<sup>99</sup>

The physiocrats, in other words, built a system of thought capable of broad intellectual and even emotional appeal. They wanted to persuade minds and win converts.<sup>100</sup> And it is perhaps not surprising, therefore, that physiocracy proved popular in international circles. Thus in Germany: “The most important German exponent of physiocracy was Johann August Schlettwein (1731-1802), who not only produced a series of influential theoretical works, but also attempted to translate theory into practice as a councillor to the Margrave of Baden between 1763 and 1773.”<sup>101</sup> So also Russia, where the Empress “Catherine the Great . . . incorporated [the physiocratic] idea that agriculture was the foundation for national wealth into her Great Instruction.”<sup>102</sup> Physiocracy also gained adherents in neighboring Poland: “Such a doctrine [physiocracy] had, in principle, an appeal to a landed aristocracy, not least in an overwhelmingly agrarian state such as Poland-Lithuania.”<sup>103</sup> In Sweden, “the tutor of Gustaf III, during the king’s minority . . . had tried to introduce French physiocracy into Sweden in a translated, simplified, and revised form.”<sup>104</sup> Physiocracy also had a

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<sup>99</sup> *Id.* at 188–89.

<sup>100</sup> For evidence of successful physiocratic proselytism, see, for instance, JAMES J. McLAIN, *THE ECONOMIC WRITINGS OF DU PONT DE NEMOURS* 40 (1977) (discussing the conversions of Du Pont and Nicolas Baudeau to physiocracy); YVES CHARBIT, *THE CLASSICAL FOUNDATIONS OF POPULATION THOUGHT: FROM PLATO TO QUESNAY* 124 (2010) (discussing the “conversion to physiocracy” of Victor de Riqueti, the marquis de Mirabeau).

<sup>101</sup> JOACHIM WHALEY, *2 GERMANY AND THE HOLY ROMAN EMPIRE, THE PEACE OF WESTPHALIA TO THE DISSOLUTION OF THE REICH* 490 (2012).

<sup>102</sup> SUSAN SMITH-PETER, *IMAGINING RUSSIAN REGIONS: SUBNATIONAL IDENTITY AND CIVIL SOCIETY IN NINETEENTH-CENTURY RUSSIA* 143 (Leiden, 2018). Catherine’s so-called “Great Instruction,” also known as Catherine’s Nakaz, was the Empress’ set of directions for the creation of a new code of Russian law. See Michael Widener, *Monuments of Imperial Russian Law: The Nakaz in English*, YALE L. SCH. (Mar. 12, 2012), [library.law.yale.edu/news/monuments-impierial-russian-law-nakaz-english](http://library.law.yale.edu/news/monuments-impierial-russian-law-nakaz-english).

<sup>103</sup> JERZY LUKOWSKI, *DISORDERLY LIBERTY: THE POLITICAL CULTURE OF THE POLISH-LITHUANIAN COMMONWEALTH IN THE EIGHTEENTH CENTURY* 150 (2010). *Cf.*, LARRY WOLFF, *INVENTING EASTERN EUROPE: THE MAP OF CIVILIZATION ON THE MIND OF THE ENLIGHTENMENT* 267 (1994) (on the efforts of French physiocrats to win followers in Poland).

<sup>104</sup> Johan Lönnroth, *Before Economics*, in *THE HISTORY OF SWEDISH ECONOMIC THOUGHT* 11, 26 (Bo Sandelin ed., 1991). *Cf.*, Lars Magnusson, *The Reception of a Political Economy of Free Trade: The Case of Sweden*, in *1 FREE TRADE AND ITS RECEPTION 1815-1860* 145, 150 (Andrew Marrison ed. 1998)

lively presence in Great Britain, where it competed with Adam Smith's set of free-market ideas.<sup>105</sup>

Physiocracy was, in many respects, a poor fit for the United States. There was practically speaking no one in the new American Republic the least interested in defending a leading role for enlightened monarchy or judicial despotism. The Americans had just fought a successful Revolutionary War to expel monarchy and had adopted a constitution that separated and distinguished between executive, legislative, and judicial powers, assigning each to a separate and coordinate branch of government. There was no room for physiocratic political ideas here at all.

On the other hand, if one defined the physiocratic ideal a little more loosely as a theory that the primary source of wealth is and always will be agricultural, then one can identify a formidable body of believers in physiocracy in the New World. Benjamin Franklin, whose forbidding intellect toyed with any number of economic ideas over his long life,<sup>106</sup> went through a physiocratic phase.<sup>107</sup> Franklin had actually become personally acquainted with Quesnay during his time in Paris.<sup>108</sup>

Nor was Franklin alone in his physiocratic tendencies. About James Madison, one recent historian has observed that he "preferred the ideas of French physiocrats to those of English political economists."<sup>109</sup> Indeed,

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(further elaborating on Swedish physiocracy).

<sup>105</sup> See generally Ronald L. Meek, *Physiocracy and Classicism in Britain*, 61 THE ECON. J. 26 (1951).

<sup>106</sup> See, for instance, LORRAINE SMITH PANGLE, THE POLITICAL PHILOSOPHY OF BENJAMIN FRANKLIN 15–48 (2007) (examining the main lines of Franklin's economic thought).

<sup>107</sup> Thus Franklin wrote: "[T]here seem to be but three ways for a nation to acquire wealth. The first is by war, as the Romans did, in plundering their conquered neighbours. This is robbery. The second by commerce, which is generally cheating. The third by agriculture, the only honest way, wherein man receives a real increase of the seed thrown into the ground . . . ." RALPH KETCHAM, THE POLITICAL THOUGHT OF BENJAMIN FRANKLIN 229 (1965) (quoting Benjamin Franklin) (emphasis in original). Cf., DURAND ECHEVERRIA, MIRAGE IN THE WEST: A HISTORY OF THE FRENCH IMAGE OF AMERICAN SOCIETY TO 1815 24–25 (1957) (Franklin's advocacy of physiocratic ideas during his embassy in France). Cf., Edward J. Dodson, *Benjamin Franklin's Principles of Political Economy: A Speculative Inquiry*, 36 INT'L J. SOC. ECON. 428, 432–39 (2009) (further developing Franklin's relationship with physiocracy).

<sup>108</sup> FORREST McDONALD, NOVUS ORDO SECLORUM: THE INTELLECTUAL ORIGINS OF THE CONSTITUTION 107–108 (1985).

<sup>109</sup> NICOLE EUSTACE, 1812: WAR AND THE PASSIONS OF PATRIOTISM 32

Manuela Albertone notes that as late as 1811, Madison continued to repeat core tenets of physiocratic theory – such as “the centrality of agriculture.”<sup>110</sup> John Dickinson (1732-1808), among the leaders in the early phases of the American Revolution, has also been numbered among the physiocrats.<sup>111</sup>

Thomas Jefferson, however, has often – and correctly – been seen as the paradigm of the American Founder deeply influenced by physiocracy. Jefferson had visited with physiocrats during his time in Paris and befriended Pierre Du Pont de Nemours, a noted physiocrat (and eventual immigrant to America and Jeffersonian presidential advisor).<sup>112</sup> Jefferson “held an extensive collection of physiocratic works.”<sup>113</sup> Again, one can consult Manuela Albertone, who has written that for much of Jefferson’s career, even after leaving the Presidency, “Physiocracy remained [for him] the starting point for the science of political economy.”<sup>114</sup> Indeed, for Jefferson, the whole idea of a self-governing nation was tightly woven into an agrarian – and physiocratic – exemplar.<sup>115</sup>

If Alexander Hamilton hoped to make the case that Congress should support and encourage the growth of the United States as a commercial and manufacturing nation, then he had to confront the politics and economics of agrarianism. Thus, the physiocrats became his “first target.”<sup>116</sup> He had no choice. He had to address the physiocrats in his Report on Manufactures.

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(2012).

<sup>110</sup> Manuela Albertone, *The American Agricultural Societies and the Making of the New Republic, 1785-1830*, in *THE RISE OF ECONOMIC SOCIETIES IN THE EIGHTEENTH CENTURY: PATRIOTIC REFORM IN EUROPE AND NORTH AMERICA* 339, 361 (Koen Stapelbroek & Jani Marjanen eds., 2012).

<sup>111</sup> Marianne Johnson, “More Native Than French:” *American Physiocrats and Their Political Economy*, 10 *HIST. ECON. IDEAS* 15 (2002).

<sup>112</sup> See generally, Robert F. Haggard, *The Politics of Friendship: Du Pont, Jefferson, Madison, and the Physiocratic Dream for the New World*, 153 *PROC. AM. PHIL. SOC'Y* 419–440 (2009).

<sup>113</sup> DAVE XUELIANG WANG, *CHINA AND THE FOUNDING OF THE UNITED STATES: THE INFLUENCE OF TRADITIONAL CHINESE CIVILIZATION* 18 (2021).

<sup>114</sup> Manuela Albertone, *Thomas Jefferson and French Economic Thought: A Mutual Exchange of Ideas*, in *RETHINKING THE ATLANTIC WORLD: EUROPE AND AMERICA IN THE AGE OF DEMOCRATIC REVOLUTIONS* 123, 130 (Manuela Albertone & Antonino De Francesco eds., 2009).

<sup>115</sup> James Phillips, *American Agrarianism’s Answers to the Nation’s (In)Securities*, 9 *CONN. PUBLIC INT’L L.J.* 343, 346 (2010).

<sup>116</sup> GLORY M. LIU, *ADAM SMITH’S AMERICA: HOW A SCOTTISH PHILOSOPHER BECAME AN ICON OF AMERICAN CAPITALISM* 43 (2022).

## V. HAMILTON'S REPORT ON MANUFACTURES

On December 5, 1791, Alexander Hamilton presented to Congress his Report on Manufactures.<sup>117</sup> This document has been called many things. Ivan Berend has stated that with the submission of this Report, Hamilton “became the very first theorist and advocate of economic nationalism.”<sup>118</sup> He has also been perceived as a visionary. Hamilton saw something that wasn’t there. “Hamilton saw manufacturing as America’s future.”<sup>119</sup> He feared, furthermore, for America’s national security. Britain and France both had designs on the newly independent nation. Hamilton wanted to ensure America’s capacity to resist foreign encroachments, and he saw manufacturing as a means of “creat[ing] greater economic independence.”<sup>120</sup> But he first had to address the agrarians and the physiocrats.

Manuela Albertone has noted the close attention Hamilton paid to the views of the physiocrats. “The Report,” she wrote, “opens with Hamilton’s point-by-point rejection of Physiocratic ideas.”<sup>121</sup> Footnotes in his official papers suggest that Hamilton likely did not directly read the leading physiocrats, such as Quesnay.<sup>122</sup> He was content, rather, to borrow and paraphrase the criticism of others, most especially Adam Smith.<sup>123</sup> For rhetorical effect, he placed these arguments within quotation marks, and employed some of the metaphors common to physiocratic writings.<sup>124</sup>

Hamilton was interested in rebutting the physiocrats. And so, he

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<sup>117</sup> See ALEXANDER HAMILTON, *WORKS OF ALEXANDER HAMILTON: COMPRISING HIS MOST IMPORTANT OFFICIAL REPORTS 157–274* (1810).

<sup>118</sup> Ivan T. Berend, *Economic Nationalism In Historical Perspective*, in *HANDBOOK OF ECONOMIC NATIONALISM* 1, 3 (Andreas Pickel, ed., 2022).

<sup>119</sup> JUDITH GOLDSTEIN, *IDEAS, INTERESTS, AND AMERICAN TRADE POLICY* 30 (1993).

<sup>120</sup> MICHAEL P. FEDERICI, *THE POLITICAL PHILOSOPHY OF ALEXANDER HAMILTON* 208 (2012).

<sup>121</sup> Manuela Albertone, *Physiocracy in Eighteenth-Century America: Economic Theory and Political Weapons*, 47 *HIST. EUR. IDEAS* 97, 104 (2021).

<sup>122</sup> *Alexander Hamilton’s Final Version of the Report on the Subject of Manufactures*, *FOUNDERS ONLINE*, n. 127. [founders.archives.gov/documents/Hamilton/01-10-02-0001-0007](https://founders.archives.gov/documents/Hamilton/01-10-02-0001-0007) [hereinafter *Hamilton’s Report*].

<sup>123</sup> *Id.*

<sup>124</sup> ELIZABETH HEWITT, *SPECULATIVE FICTIONS: EXPLAINING THE ECONOMY IN THE EARLY UNITED STATES* 124 (Oxford, UK, 2020).

wanted to set before the reader well-crafted propositions that he might proceed to attack. But he must have realized that the best rebuttals arise naturally from a fair-minded summary of opposing views. And so, he strove to state the physiocratic position as strongly as possible. First, he noted, the physiocrats maintained that agriculture was always and inevitably the most productive form of enterprise.<sup>125</sup> And if this was so, then there was no place on earth as well-suited for growth and prosperity as the United States, given its “extensive wilderness” that can be converted “into cultivated forms.”<sup>126</sup> It followed, further, that it was also wrong-headed for the Government to promote commercial and manufacturing interests.

The Government, Hamilton added, continuing his summary of physiocratic views, if it were to promote manufacturing, would be transferring valuable resources from a more beneficial “to a less beneficial channel.”<sup>127</sup> And if this was not a sufficient error by itself, then it must also be true that natural economic principles will conspire to frustrate and defeat this misguided error.<sup>128</sup> Nothing could be plainer, since manufacturing was economically sterile, and thus always and entirely dependent on the surplus generated from agriculture.<sup>129</sup> As well, the Government would be playing favorites. Support for manufactures “will only be to sacrifice the interests of the community to those of particular classes.”<sup>130</sup>

Nor was Hamilton finished with his restatement of physiocratic views. There was also the demographics of the United States to consider. Compared to the vastness of the land, there was “a scarcity of hands for manufacturing occupation, and dearness of labor generally.”<sup>131</sup> In other words, even if the Government of the United States chose to promote manufacturing, there were not enough persons available to perform the necessary tasks.

And, furthermore, there was human nature to contend with. Most persons would rather be economically independent than dependent on someone else’s success for their employment. And, given the allure of the

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<sup>125</sup> Hamilton’s Report, *supra* note 122.

<sup>126</sup> Hamilton’s Report, *supra* note 122.

<sup>127</sup> Hamilton’s Report, *supra* note 122.

<sup>128</sup> Hamilton’s Report, *supra* note 122.

<sup>129</sup> Hamilton’s Report, *supra* note 122. (Such a conclusion, Hamilton asserted, was “infallibl[e].” *Id.* A little later in the text, Hamilton described this as a “misdirection of labour.” *Id.*

<sup>130</sup> Hamilton’s Report, *supra* note 122.

frontier, one must therefore acknowledge “the facility with which the less independent condition of an artisan can be exchanged for the more independent condition of a farmer.”<sup>132</sup>

Thus, Hamilton recapitulated the views he sought to refute:

“It ought to be readily conceded that the cultivation of the earth – as the primary and most certain source of national supply – as the immediate and chief source of subsistence to man – as the principal source of those materials which constitute the nutriment of other kinds of labor – as including a state most favourable to freedom and independence of the human mind – one, perhaps most conducive to the multiplication of the human species – has intrinsically a strong claim to preeminence over every other kind of industry.”<sup>133</sup>

One must attend carefully to Hamilton’s language. He conceded “preeminence,” but in the next paragraph he carefully noted that he did not acknowledge that agriculture enjoyed “a title to any thing like an exclusive predilection.”<sup>134</sup> He was engaging in a kind of rhetorical deference, a curtsy to physiocracy more feigned than real, given the direction his argument was about to take.

And that direction was to challenge the whole idea that theories – unified explanations of the way a certain reality should control our decision-making processes – ought to continue to enjoy such pride of place. Hamilton proposed instead that we should approach economic phenomena with an anti-theoretical skepticism. Physiocracy, after all, was a theory that meant to represent the laws of nature itself, with no exceptions to the rule.

Hamilton, however, proposed to put physiocracy to the test. There were nations, he noted, that have sought to greater or lesser extent to apply physiocratic insights. But their commitment to pastoralism did not “carr[y] them faster to prosperity and greatness.”<sup>135</sup> Theories are messy, they are riddled with exceptions and qualifications, and “few if any, of the political kind . . . do not blend a considerable portion of error with the truths they

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<sup>131</sup> Hamilton’s Report, *supra* note 122.

<sup>132</sup> Hamilton’s Report, *supra* note 122.

<sup>133</sup> Hamilton’s Report, *supra* note 122.

<sup>134</sup> Hamilton’s Report, *supra* note 122.

<sup>135</sup> Hamilton’s Report, *supra* note 122.

inculcate.”<sup>136</sup> Physiocracy was theory – it was an a priori account of the first principles of economic life – and it suffered from all of the intellectual blemishes and flaws that attended any form of a priori theoretical reasoning. Thus, he concluded that physiocracy did not satisfy the terms and conditions it had set for itself. It did not make the nations that subscribed to its practice the most powerful, successful nations on earth.

Furthermore, the physiocratic claim that agriculture is “the only productive species of industry” lacked empirical verification.<sup>137</sup> At this point, Hamilton turned sharply in the direction of Adam Smith for support.<sup>138</sup> Indeed, much of this section of Hamilton’s response took the form of several long paraphrases of Smith’s text.<sup>139</sup> “Artificers” – those, in other words, who themselves manufacture or who invent new devices to increase scale and efficiency – can specialize more readily than farmers.<sup>140</sup> They will thereby enhance their “Skill.”<sup>141</sup> Furthermore, in specializing, they can develop new products that will contribute great “improvement” to the “productive powers” of society.<sup>142</sup> They can create and bring to market “ingenious machinery.”<sup>143</sup>

And if all of this were true, Hamilton went on, then the claim that agriculture is the sole source of a society’s wealth or productive capacity must necessarily be refuted. Why? Because artificers and manufacturers were not merely dependent on agriculture but were also contributing to the actual productivity of society. Specialization, complexity, inventiveness, creativity, building to scale, all made profound contributions to economic growth. Agriculture itself might even be made more productive.<sup>144</sup>

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<sup>136</sup> Hamilton’s Report, *supra* note 122.

<sup>137</sup> Hamilton’s Report, *supra* note 122.

<sup>138</sup> Manuela Albertone, NATIONAL IDENTITY AND THE AGRARIAN REPUBLIC: THE TRANSATLANTIC COMMERCE OF IDEAS BETWEEN AMERICA AND FRANCE (1750-1830) 62 (New York, 2014).

<sup>139</sup> See Hamilton’s Report, *supra* note 122, at n. 128–137 (paraphrasing portions of Adam Smith’s WEALTH OF NATIONS).

<sup>140</sup> Hamilton’s Report, *supra* note 122, at n. 128–137.

<sup>141</sup> Hamilton’s Report, *supra* note 122, at n. 128–137.

<sup>142</sup> Hamilton’s Report, *supra* note 122, at n. 128–137. (emphasis in original).

<sup>143</sup> Hamilton’s Report, *supra* note 122, at n. 128–137.

<sup>144</sup> Hamilton’s Report, *supra* note 122, at n. 128–137. (What Hamilton called “some improvement in the productive powers of the useful Labour”) (emphasis in original). (And what he added elsewhere: “the labor of man alone laid out upon a work, requiring great skill and art to bring it to perfection, may be more

Having refuted, to his own satisfaction at least, physiocracy's principal claim that agriculture must, by natural law, be the sole source of wealth in society, Hamilton moved to build an affirmative case for manufacturing. The skills needed to operate a successful manufacturing concern were not only sophisticated but required more daily discipline than the skills needed for farming.<sup>145</sup> A farmer blessed with naturally bountiful land "may frequently obtain a livelihood, even with a considerable degree of carelessness in the mode of cultivation."<sup>146</sup> This cannot be true in commerce, because artisans and artificers must exert themselves "pretty equally with all those [others] engaged in the same pursuit."<sup>147</sup>

Was it therefore the case that manufacturing might even be more valuable? More productive than agriculture? Hamilton at least raised the question.<sup>148</sup> In the end, although he chose not to answer the query,<sup>149</sup> he was quick to declare that manufacturing "has been improperly represented as unproductive in itself."<sup>150</sup> Not all modern commentators have read Hamilton's arguments so modestly. Thus, Harvey Flaumenhaft reads Hamilton as "approv[ing] of manufacturing as productive of men who are producers of more. Because a manufacturing commercial society is a very diverse society, it employs a great variety of talents and greatly stimulates ingenuity; there is thus more productive exertion of the human mind in such a society."<sup>151</sup>

Hamilton then shifted focus. He wanted to state the case that manufacturing could quickly and efficiently build wealth for a society like the United States. Thus he noted that the development and deployment of increasingly sophisticated machinery will mean an ever more refined division of labor, with "[t]he greater skill and dexterity naturally resulting from a constant and undivided application to a single task."<sup>152</sup> Machinery

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productive, in value, than the labour of nature and man combined") (emphasis in original) (by "nature and man combined" Hamilton meant to refer to agriculture).

<sup>145</sup> Hamilton's Report, *supra* note 122, at n. 128–137.

<sup>146</sup> Hamilton's Report, *supra* note 122, at n. 128–137.

<sup>147</sup> Hamilton's Report, *supra* note 122, at n. 128–137.

<sup>148</sup> Hamilton's Report, *supra* note 122, at n. 128–137.

<sup>149</sup> Hamilton's Report, *supra* note 122, at n. 128–137. ("without contending for the superior productiveness of Manufacturing Industry").

<sup>150</sup> Hamilton's Report, *supra* note 122, at n. 128–137.

<sup>151</sup> HARVEY FLAUMENHAFT, *THE EFFECTIVE REPUBLIC: ADMINISTRATION AND CONSTITUTION IN THE THOUGHT OF ALEXANDER HAMILTON* 25 (1992).

<sup>152</sup> Hamilton's Report, *supra* note 122.



will also come to be more extensively refined and relied upon as machinists themselves become a “distinct trade,” “Artist[s],” really, in the design and application of complex tools and engines of growth.<sup>153</sup>

Thus, we see a division of labor. We notice “the separation of the occupation of the cultivator from that of the Artificer,” but this is not to the discredit of manufacturing.<sup>154</sup> Rather it “has the effect of augmenting the productive powers of labour, and with them, the total mass of the produce or revenue of a Country.”<sup>155</sup> The division of labors, in other words, is not a weakness but a strength. A more specialized America will be a nation of greater skill and aptitude.

But what of the responsibility of the State in all of this? Hamilton, after all, was making a Report to Congress, to a group of governmental officials who sought guidance on how best to serve the public good. This was not some debating society or philosophical association. This was an audience that demanded to know what came next and what they should do about it.

And this was where Hamilton counseled Congress to become, effectively, although the eighteenth century did not use this vocabulary, economic nationalists. As one historian has put it, having earlier relied on his work, Hamilton “now stood Adam Smith on his head.”<sup>156</sup> Indeed, as another scholar, the Polish economist Henryk Szlaiffer, has written: “Although a conservative and elitist, in his public activities and economic projects [Hamilton] was a real radical, and a precursor of American economic nationalism.”<sup>157</sup>

Hamilton began his case for economic nationalism on the premise that foreign trade is an indispensable aspect of every nation’s wealth and well-being. At the present moment, however, Hamilton continued, the United States was limited in its capacity to engage in international trade. It can ship agricultural products to other nations, but those nations’ markets are unpredictable and fluctuating. “[T]he foreign demand for the product of Agricultural Countries, is, in a great degree, rather casual and occasional,

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<sup>153</sup> Hamilton’s Report, *supra* note 122.

<sup>154</sup> Hamilton’s Report, *supra* note 122.

<sup>155</sup> Hamilton’s Report, *supra* note 122. (emphasis in original).

<sup>156</sup> M.P. COWEN AND R.W. SHENTON, DOCTRINES OF DEVELOPMENT 147 (1996).

<sup>157</sup> HENRYK SZLAIFFER, ECONOMIC NATIONALISM AND GLOBALIZATION: LESSONS FROM LATIN AMERICA AND CENTRAL EUROPE 50 (2012).

than certain or constant.”<sup>158</sup> In fact, Hamilton added, America’s over-reliance on the trade in agricultural products had already proved harmful to national interests.<sup>159</sup> Agricultural markets are prone to gluts,<sup>160</sup> and the rapid expansion of the American nation would likely flood already saturated markets and make matters worse.<sup>161</sup>

In its present condition, in other words, America was likely to face economic depression as it produced crops and foodstuffs in quantities too great to be consumed either locally or traded. Manufacturing was a solution to this problem. It was, in fact, likely to be a great stimulant to future growth since human inventiveness “creates a demand for [products] as were either unknown or produced in inconsiderable quantities.”<sup>162</sup> Thus there were compelling reasons for “nations to diversify the industrious pursuits of the individuals who compose them.”<sup>163</sup>

Hamilton’s syllogism was so deftly argued, it almost escapes unnoticed. Depression must be avoided. Too much agricultural production creates conditions of over-supply and causes depression. Manufacturing, on the other hand, offers the possibility of open-ended growth. Therefore: “[T]here is no other expedient, than to promote manufacturing establishments.”<sup>164</sup>

The necessity of governmental support, Hamilton went on, was especially acute in the United States. In a perfect world – one almost detected Hamilton sighing – markets might be free, but in the actual world,

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<sup>158</sup> Hamilton’s Report, *supra* note 122.

<sup>159</sup> Hamilton’s Report, *supra* note 122. “To what extent injurious interruptions of the demand for some of the staple commodities of the United States may have been experienced, from that cause, must be referred to the judgment of those who are engaged in carrying on the commerce of the country; but it may be safely assumed, that such interruptions are at times very inconveniently felt, and that cases not infrequently occur . . . .”

<sup>160</sup> Hamilton’s Report, *supra* note 122. (“Plentiful harvests . . . especially if similar ones occur at the same time in the countries, which are the furnishers, occasion of course a glut in the markets of the latter”).

<sup>161</sup> Hamilton’s Report, *supra* note 122. (“Considering how fast and how much the progress of new settlements in the United States must increase the surplus produce of the soil, . . . there appear strong reasons to regard the foreign demand for that surplus as too uncertain a reliance . . .”).

<sup>162</sup> Hamilton’s Report, *supra* note 122.

<sup>163</sup> Hamilton’s Report, *supra* note 122.

<sup>164</sup> Hamilton’s Report, *supra* note 122.

the one that we inhabit, there was no such thing as free trade.<sup>165</sup> “The regulations of several countries, with which we have the most extensive intercourse, throw serious obstructions in the way of the principal staples of the United States.”<sup>166</sup> The United States “cannot exchange with Europe on equal terms.”<sup>167</sup> There is no “reciprocity.”<sup>168</sup> The United States found itself “to a certain extent in the situation of a country precluded from foreign commerce.”<sup>169</sup> And the trading practices of competitors were likely to continue to frustrate such a development from freely or spontaneously occurring. There was thus an urgent national interest in the United States Government taking a leading role in the development of an independent manufacturing base. Therefore, the syllogism again seemed self-evident: it was the responsibility of Government to encourage the growth and success of the new nation.

Hamilton was not unaware of the political dynamics that awaited his Report. He knew that Congress was already dividing into Northern and Southern factions. He feared that some might seize on his arguments on behalf of manufacture to say that he was promoting the interests only of the North. “The Northern and southern regions are sometimes represented as having adverse interests in this respect. Those are called Manufacturing, these Agricultural states.”<sup>170</sup> This sectional vision of the United States was, for Hamilton, short-sighted.<sup>171</sup> One must keep in mind “that the aggregate prosperity of manufactures, and the aggregate prosperity of Agriculture are intimately connected.”<sup>172</sup> In other words, where one sector of the economy (or nation) succeeded, it was likely that the wealth of all sectors would benefit. It was short-sighted, truly counter-productive, for one geographic section to consider its interests paramount at the expense of the other.

Having worked through the case for governmental promotion of the

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<sup>165</sup> Louis M. Hacker, “The Report on Manufactures,” *THE HISTORIAN* 144, 150 (vol. 19, 1957) (“In an imperfect world, government intervention to encourage manufactures was necessary”).

<sup>166</sup> Hamilton’s Report, *supra* note 122.

<sup>167</sup> Hamilton’s Report, *supra* note 122.

<sup>168</sup> Hamilton’s Report, *supra* note 122.

<sup>169</sup> Hamilton’s Report, *supra* note 122.

<sup>170</sup> Hamilton’s Report, *supra* note 122.

<sup>171</sup> Hamilton’s Report, *supra* note 122. (“Ideas of a contrariety of interests between the Northern and southern regions of the Union are in the Main as unfounded as they are mischievous”).

<sup>172</sup> Hamilton’s Report, *supra* note 122. (emphasis in original).

manufacturing sector, Hamilton at last turned his attention to the types of support available to the government. Hamilton had large dreams. Thus, it has been noted that “Hamilton encouraged Congress to sponsor government assistance to promote American manufacturing on a scale comparable to the industrial revolution already underway in Great Britain.”<sup>173</sup>

Hamilton weighed the pros and cons of the different measures the government might take in support of domestic industry. There were various forms of prohibitions to which the government might have resort. The government might thus forbid the export of commodities or other raw materials useful for domestic manufacture.<sup>174</sup> Hamilton was not ready to say that such a step should never be taken, but its use should be done “with great circumspect[ion].”<sup>175</sup> On the other hand, the banning of competing foreign goods from importation might sometimes be “efficacious” but should only be utilized where quality domestic manufactured goods were available and in need of assistance.<sup>176</sup>

Hamilton was more supportive of three other types of governmental assistance. The government might offer “pecuniary bounties.”<sup>177</sup> “This has been found one of the most efficacious means of encouraging manufactures, and it is in some views, the best.”<sup>178</sup> As Hamilton described what he meant by bounty, it is clear that he intended the Congress to provide subsidies to certain essential industries, in order “to stimulate and uphold new enterprises, increasing the chance of profit, and diminishing the risk of loss.”<sup>179</sup> A truly remarkable position – that some manufacturing enterprises are so valuable to the nation’s well-being that the public should be made to bear any losses the entrepreneur suffers. Second, Congress might offer “premiums.”<sup>180</sup> “Premiums,” Hamilton wrote, “serve to reward some particular excellence or superiority, some extraordinary exertion or skill.”<sup>181</sup> Such prizes should only be given, Hamilton added, “in a small

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<sup>173</sup> JONATHAN ADKINS, *FROM CONFEDERATION TO NATION: THE EARLY AMERICAN REPUBLIC, 1789-1848* 32 (New York, 2016).

<sup>174</sup> Hamilton’s Report, *supra* note 122.

<sup>175</sup> Hamilton’s Report, *supra* note 122.

<sup>176</sup> Hamilton’s Report, *supra* note 122.

<sup>177</sup> Hamilton’s Report, *supra* note 122.

<sup>178</sup> Hamilton’s Report, *supra* note 122.

<sup>179</sup> Hamilton’s Report, *supra* note 122.

<sup>180</sup> Hamilton’s Report, *supra* note 122.

<sup>181</sup> Hamilton’s Report, *supra* note 122.

number of cases.”<sup>182</sup> They should be reserved to truly exceptional contributions to the public welfare.

Then there were tariffs and duties. “Duties of this Nature,” Hamilton explained, “evidently amount to a virtual bounty on the domestic fabrics since by enhancing charges on foreign Articles, they enable the National Manufacturers to undersell all their foreign Competitors.”<sup>183</sup> Although Hamilton did not use the word, he clearly understood tariffs to serve a protective function.<sup>184</sup> Hamilton stressed, furthermore, that such tariffs might be the easiest form of subsidy to implement since the imposition of duties on foreign goods “is [already] sanctioned by the laws of the United States in a variety of instances.”<sup>185</sup>

How, finally, was the government to know which industries to favor? In the closing portion of his Report, Hamilton answered this question. Congress should create a Board for promoting Arts, Agriculture, Manufactures, and Commerce.<sup>186</sup> This Board was envisioned as enjoying truly extraordinary power. It might recruit eminent scientists and manufacturers from other nations and pay the costs of their immigration.<sup>187</sup> It should identify “useful discoveries, inventions, and improvements” and ensure that they are properly subsidized.<sup>188</sup> The Board should be entrusted with a fund to ensure success and should make periodic reports to Congress about its progress.<sup>189</sup>

So, if Hamilton was an economic nationalist, what implications follow? First, it is obvious that Hamilton was no dogmatic believer in free

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<sup>182</sup> Hamilton’s Report, *supra* note 122.

<sup>183</sup> Hamilton’s Report, *supra* note 122.

<sup>184</sup> It has been noted that Hamilton’s “recommended tariff increases were far short of establishing a protective tariff.” Peter McNamara, *Hamilton and Jefferson: Two Visions of Democratic Capitalism*, in REDISCOVERING POLITICAL ECONOMY 187, 194 (Joseph Postell & Bradley C.S. Watson eds., 2011) (emphasis in original). That may be so, but it is equally clear that Hamilton defended at least the theory of a protective tariff. See MENGANG LI, RESEARCH ON INDUSTRIAL SECURITY THEORY 243 (Berlin, 2013).

<sup>185</sup> Hamilton’s Report, *supra* note 122.

<sup>186</sup> Hamilton’s Report, *supra* note 122.

<sup>187</sup> Hamilton’s Report, *supra* note 122. “There are . . . valuable workmen, in every branch, who are prevented from emigrating solely by the want of means. Occasional aids to such persons properly administered might be a source of valuable acquisitions to the country.”

<sup>188</sup> Hamilton’s Report, *supra* note 122.

<sup>189</sup> Hamilton’s Report, *supra* note 122.

markets. It was not only possible for the government to make value judgments, but it was also the government's affirmative duty to do precisely that. Certain industries were essential. Certain manufacturing developments should be promoted. Others, at least by implication, should be disfavored. Such a system may or may not work in practice. Certainly, it has been denounced as a species of "crony capitalism."<sup>190</sup> A little less pejoratively, it has been called "picking winners and losers." Hamilton himself played favorites in his management of the Department of Treasury.<sup>191</sup> But Hamilton perceived the United States in a continuously unfair competition with other nations. In a world where every nation used manufacturing as a means to gain advantages on their rivals, subsidies and tariffs were fair game.

Hamilton's vision of the nation, however, also bears remarking. His vision of the United States was of a unified nation, complementary, the parts supporting the whole. Hamilton conceded that yes, there were divisions between the Northern and Southern states, but that these divisions must be sublimated for a greater good. It is impossible not to perceive standing behind this Hamilton was that other Hamilton, a principal author of the Federalist Papers, who greatly feared the fragmentation of the United States.<sup>192</sup> One cannot also fail to notice the optimism in Hamilton's Report. "If we get this right," he seems to say, "greatness may truly be the American destiny."

Finally, there is the matter of Hamilton's vision of government as distinguished from the nation. He has often been said to be a supporter of "energetic" government. He said as much in his contributions to the

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<sup>190</sup> Burton W. Folsom, Jr., *The Fall and Rise of Laissez-Faire in the United States, 1789-1900*, 23 INDEP. REV. 357, 358 (2019); Robert H. Wade, *The American Paradox: Ideology of Free Markets and the Hidden Practice of Directional Thrust*, 41 CAMBRIDGE J. ECON. 859, 862-63 (2017). Cf., PETER KOLOZI, CONSERVATIVES AGAINST CAPITALISM: FROM THE INDUSTRIAL REVOLUTION TO GLOBALIZATION (2017) (analyzing the populist-conservative revival of Hamilton's economic nationalism).

<sup>191</sup> Andrew Shankman, "A New Thing on Earth: "Alexander Hamilton, Pro-Manufacturing Republicans, and the Democratization of American Political Economy," 23 J. EARLY REPUBLIC 323, 326 (2003).

<sup>192</sup> See, for instance, THE FEDERALIST NO. 6, (Alexander Hamilton), ("A man must be far gone in Utopian speculations who can seriously doubt that, if these States should either be wholly disunited, or only united in partial confederacies, the subdivisions into which they might be thrown would have frequent and violent contests with each other"). Shankman, *supra* note 191.

Federalist Papers.<sup>193</sup> A successful United States, in Hamilton's view, required "a powerful, activist federal government."<sup>194</sup> The Preamble of the United States Constitution spoke grandly about the Government's responsibility "to promote the General Welfare," and Hamilton meant to place a broad construction on those words.

In the end, Congress took no direct action on the Report on Manufactures, even if many of the tariffs Hamilton recommended were subsequently adopted.<sup>195</sup> The opposition he encountered from Thomas Jefferson, in Washington's cabinet, and James Madison in the House of Representatives, was too much to overcome.<sup>196</sup> Even if Hamilton believed in a vision of the United States as a single nation, "Hamilton's antagonists considered his program flawed because it favored manufacturing interests over agricultural and commercial ones."<sup>197</sup> And even in the attenuated form in which Hamilton's Department of Treasury proposed and implemented a program favorable to manufacturing interests, he roused strong opposition, not least from those who felt themselves overlooked or slighted.<sup>198</sup>

## VI. THE SECOND LIFE OF HAMILTON'S REPORT ON MANUFACTURES

Rather than dwell, however, on the disputes of the 1790s, it is preferable to focus on the long afterlife Hamilton's Report on Manufactures has enjoyed. Generations of political leaders, policy-makers, political

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<sup>193</sup> Richard B. Bernstein, "The Federalist on Energetic Government, 1787-1788" in *ROOTS OF THE REPUBLIC: AMERICAN FOUNDING DOCUMENTS INTERPRETED* 335-41 (Stephen L. Schechter ed., 1990).

<sup>194</sup> DARREN STALOFF, *HAMILTON, ADAMS, JEFFERSON: THE POLITICS OF ENLIGHTENMENT AND THE AMERICAN FOUNDING* 89 (2005).

<sup>195</sup> Douglas A. Irwin, *The Aftermath of Hamilton's "Report on Manufactures,"* 64 *J. ECON. HIST.* 800, 808-13 (2004).

<sup>196</sup> Colleen A. Sheehan, *Madison Versus Hamilton: The Battle Over Republicanism and the Role of Public Opinion,* in *THE MANY FACES OF ALEXANDER HAMILTON: THE LIFE AND LEGACY OF AMERICA'S MOST ELUSIVE FOUNDING FATHER* 165, 169 (Douglas Ambrose and Robert W.T. Martin eds., 2006).

<sup>197</sup> ALAN I. MARCUS AND HOWARD P. SIEGAL, *TECHNOLOGY IN AMERICA: A BRIEF HISTORY* 32 (3d ed., 2018).

<sup>198</sup> John R. Nelson, Jr., *Alexander Hamilton and American Manufacturing: A Reexamination,* 65 *J. AM. HIST.* 971, 973-75 (1979). But see, *contra*, PHILIP S. KLEIN & ARI HOOGENBOOM, *A HISTORY OF PENNSYLVANIA* 217 (2d enlarged ed., 1980) (detailing the popular support Hamilton's program enjoyed).

theorists, historians, and academic lawyers have looked to Hamilton's Report for guidance, support, and encouragement in a number of public endeavors. One might divide this body of work into three large chronological periods. The first period, running roughly from the latter nineteenth through the first third of the twentieth centuries, might be characterized as conservative. Major public figures, often Republican office-holders, took turns evaluating Hamilton's Report and its importance for public life. The second era, roughly corresponding with the New Deal and the early Cold War period, was dominated by progressive thinkers. It was now their opportunity to express opinions on the Report on Manufactures. The final period, which concludes with the present, is more eclectic. Contemporary scholars hold sharply different, diverging views on the significance of the Report. What will emerge, in the end, is a complicated portrait of the Report's long after-life, reflective both of its intrinsic importance and of the changing needs and aspirations of American society. All great historical documents, after all, have at least two stories to tell – one of their inception, another of their reception. And this is certainly true of Hamilton's Report.

#### A. The Conservative Era

Henry Cabot Lodge (1850-1924) was among the first to explore the significance of Hamilton's Report to American public life. A lawyer and a legal historian,<sup>199</sup> and a conservative intellectual,<sup>200</sup> Lodge was also a long-serving member of the United States Senate.<sup>201</sup> As a Senator, he was Woodrow Wilson's dedicated opponent on the League of Nations.<sup>202</sup> He was also among those principally responsible for the enactment of restrictive immigration policies in the early 1920s.<sup>203</sup> Early in his career, in

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<sup>199</sup> DAVID RABBAN, *LAW'S HISTORY: AMERICAN LEGAL THOUGHT AND THE TRANSATLANTIC TURN TO LEGAL HISTORY* 153–76, 183–86 (2013).

<sup>200</sup> PATRICK ALLITT, *THE CONSERVATIVES: IDEAS AND PERSONALITIES THROUGHOUT AMERICAN HISTORY* 119–29 (2009).

<sup>201</sup> JOHN A. GARRATY, *HENRY CABOT LODGE: A BIOGRAPHY* 129–32 (1953).

<sup>202</sup> WILLIAM C. WIDENOR, *HENRY CABOT LODGE AND THE SEARCH FOR AN AMERICAN FOREIGN POLICY* 266–99 (1980).

<sup>203</sup> Brian Gratton, *Race or Politics? Henry Cabot Lodge and the Origins of the Immigration Restriction Movement in the United States*, 30 *J. POL'Y HIST.* 128–57 (2018); Henry Cabot Lodge, *The Restriction of Immigration*, 152 *N. AM. REV.* 27–36 (1891).



1882, Lodge published a biography of Hamilton, in which he expressed his views on the Report on Manufactures.<sup>204</sup>

For Lodge, Hamilton's Report was "the most elaborate, and economically the most important, of all his reports, and at the same time the most far-reaching politically."<sup>205</sup> Lodge endorsed Hamilton's proposals for a program to build national prosperity and thereby secure American independence.<sup>206</sup> Lodge, who was a strong proponent of a protectionist policy in trade,<sup>207</sup> found in Hamilton support for just such a program at the time of the Founding.<sup>208</sup> Hamilton's goal was "the development of nascent industries."<sup>209</sup> Writing from the vantage point of the 1880s, Lodge concluded that Hamilton's defense of tariffs and subsidies achieved "great results"<sup>210</sup> and that "it remains the best and most complete argument for a protective policy in the United States which we possess."<sup>211</sup>

Frederick Scott Oliver (1864-1934) was a Scotsman, "a prolific and highly readable writer,"<sup>212</sup> and an ally of Joseph Chamberlain,<sup>213</sup> the British

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<sup>204</sup> HENRY CABOT LODGE, *ALEXANDER HAMILTON* (reprt. 1970) (1882).

<sup>205</sup> *Id.* at 107.

<sup>206</sup> *Id.* at 107. ("It rested on the implied powers of the Constitution, and was intended to do more than anything else toward the development of the resources of the country, the purpose nearest Hamilton's heart, and toward rendering the nation as strong and independent materially as in all other ways").

<sup>207</sup> PAUL WOLMAN, *MOST FAVORED NATION: THE REPUBLICAN REVISIONISTS AND US TARIFF POLICY, 1897-1912*, at 118 (1992); and David A. Lake, *The State and American Trade Strategy in the Pre-Hegemonic Era, in THE STATE AND AMERICAN ECONOMIC POLICY* 33, 49 (G. John Ikenberry, et al., eds. 1988).

<sup>208</sup> LODGE, *supra* note 204, at 112 ("The report on manufactures, as it stands, contains the best and soundest argument, not on the general question of free trade and protection, but on that question as connected with the United States").

<sup>209</sup> LODGE, *supra* note 204, at 112.

<sup>210</sup> LODGE, *supra* note 204, at 112.

<sup>211</sup> LODGE, *supra* note 204, at 113. William Graham Sumner (1840-1910), the Yale University social Darwinist and proto-libertarian, on the other hand, criticized the main premise of Hamilton's Report, seeing it as encumbering the American economic order with a backward-looking English mercantilist perspective, when it should have embraced free trade. WILLIAM GRAHAM SUMNER, *ALEXANDER HAMILTON* 181 (1890).

<sup>212</sup> D.G. Boyce & J. O. Stubbs, *F.S. Oliver, Lord Selborne, and Federalism*, 5 J. IMPERIAL & COMMW. HIST. 53, 54 (1976).

<sup>213</sup> John D. Fair, *F.S. Oliver, Alexander Hamilton, and the 'American Plan' for Resolving Britain's Constitutional Crises, 1903-1921*, 10 TWENTIETH-CENTURY BRIT. HIST. 1, 4-5 (1999).

political leader who sought at the beginning of the twentieth century to abandon England's commitment to free trade in favor of tariffs and protection for Britain's industries.<sup>214</sup> Oliver authored his book on Hamilton, published in 1906, as a means of providing intellectual and historical justification to this larger project.<sup>215</sup> It was an immediate literary success, and greatly elevated its author to unaccustomed political heights.<sup>216</sup>

Oliver's Hamilton was a far-sighted genius whose vision encompassed "the future of a great continent which he had the ambition to mould, not only by the force of his thoughts, but by the vigour of his acts."<sup>217</sup> Oliver continued by singing paeans to the importance of Hamilton's Report on Manufactures. It stirred "[t]he imaginations of restless and ambitious spirits."<sup>218</sup> It aimed at creating "a rapid prosperity" and it sought to do so by placing the economy "under the care and direction of government."<sup>219</sup> Hamilton's great fear was disintegration, a concern that was heightened by America's continental dimensions. The Report therefore sought to forge a "union . . . one great nation capable of producing within its own wide borders everything that its citizens would require for life, for comfort, and even for luxury."<sup>220</sup> Again, for Oliver, surmounting this vision was an activist role for government: "The state, in Hamilton's view of the matter, may create the industrial conditions it desires, precisely as a landowner goes about his forestry."<sup>221</sup>

Arthur Vandenberg (1884-1951) might be seen as bringing this first era to a close. Vandenberg was a successful Grand Rapids, Michigan, newspaper publisher who was appointed to the United States Senate in

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<sup>214</sup> Sydney H. Zebel, *Joseph Chamberlain and the Genesis of Tariff Reform*, 7 J. BRIT. STUD. 131, 138–56 (1967); Andrew S. Thompson, *Tariff Reform: An Imperial Strategy, 1903-1913*, 40 HIST. J. 1033, 1035–46 (1997); Frans Coetzee, FOR PARTY OR COUNTRY: NATIONALISM AND THE DILEMMAS OF POPULAR CONSERVATISM IN EDWARDIAN ENGLAND 71–72 (1990).

<sup>215</sup> Fair, *supra* note 213 at 5–7.

<sup>216</sup> Michael Pollard, *Sunset or Dawn? F.S. Oliver's "Endless Adventures" in History and Politics, 1921-1934*, 90 HIST. 387, 390 (2005).

<sup>217</sup> FREDERICK SCOTT OLIVER, ALEXANDER HAMILTON 231 (1906).

<sup>218</sup> *Id.* at 234.

<sup>219</sup> *Id.* at 235.

<sup>220</sup> *Id.* at 236. Oliver added that Hamilton's Report "meant the obliteration of state rivalry and the sweeping out, as by a flood, of the litter and decay of ancient jealousies."

<sup>221</sup> *Id.* at 238.

1928,<sup>222</sup> and who served there with considerable distinction until his death in 1951.<sup>223</sup> In 1921, he had already established himself as a leading voice of the kind of conservatism which Henry Cabot Lodge represented, i.e., he favored protectionist tariffs to aid American industry while opposing foreign entanglements such as the League of Nations.<sup>224</sup> At the end of World War II, however, Vandenberg famously abandoned his old isolationist position to join President Harry Truman in forging a bipartisan consensus in favor of a strong internationalism.<sup>225</sup>

Vandenberg's Hamilton was the avatar of these early twentieth-century conservative objectives. For Vandenberg, "Hamilton . . . embodied the best qualities of conservatism and Progressivism."<sup>226</sup> Vandenberg's biography of Hamilton, entitled grandly as The Greatest American: Alexander Hamilton, was an act of extended "hero worship."<sup>227</sup> For Vandenberg, Hamilton's Report on Manufactures "remains to this day the most lucid and convincing and complete defense of the protective tariff system which has ever been given to the American people."<sup>228</sup> Even if unoriginal, Vandenberg's fawning portrait, and a companion volume published two years later,<sup>229</sup> proved highly influential.<sup>230</sup>

Lodge, Oliver, and Vandenberg were conservatives, each of them

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<sup>222</sup> DENNIS W. JOHNSON, *THE LAWS THAT SHAPED AMERICA: FIFTEEN ACTS OF CONGRESS AND THEIR LASTING IMPACT* 252 (2009); BRUCE A. RUBENSTEIN AND LAWRENCE E. ZIEWACZ, *MICHIGAN: A HISTORY OF THE GREAT LAKES STATE* 262 (5th ed., 1972).

<sup>223</sup> HADLEY ARKES, *BUREAUCRACY, THE MARSHALL PLAN, AND THE NATIONAL INTEREST* 84–113 (1972).

<sup>224</sup> James A. Gazell, *Arthur H. Vandenberg, Internationalism, and the United Nations*, 88 *POL. SCI. Q.* 375, 377 (1973).

<sup>225</sup> LAWRENCE S. KAPLAN, *THE CONVERSION OF SENATOR ARTHUR H. VANDENBERG: FROM ISOLATION TO INTERNATIONAL ENGAGEMENT* 115–42 (2015).

<sup>226</sup> *Id.* at 17.

<sup>227</sup> ARTHUR HENDRICK VANDENBERG, *THE GREATEST AMERICAN: ALEXANDER HAMILTON* (1923). *Cf.*, Book Review, Vandenberg, *THE GREATEST AMERICAN: ALEXANDER HAMILTON*, 103 *ANNALS OF AMER. ACAD. POL. & SOC. SCI.* 150 (1922), ("hero worship").

<sup>228</sup> Vandenberg, *supra* note 227, at 200.

<sup>229</sup> ARTHUR HENDRICK VANDENBERG, *IF HAMILTON WERE HERE TODAY: AMERICAN FUNDAMENTALS APPLIED TO MODERN PROBLEMS* 5 (1923). This work was similar to the first volume in its hero worship. Thus Hamilton was "the Apostle and his Gospel . . . the Constitution."

<sup>230</sup> STEPHEN F. KNOTT, *ALEXANDER HAMILTON AND THE PERSISTENCE OF MYTH* 105 (2002).

actively engaged in politics, who sought to harness Hamilton to their own agendas – economic growth shepherded and sustained by a supportive, knowing, even visionary central government. They were enthusiastic for Hamilton because it suited their policy preferences, and as a result they were guilty of exaggerating the degree of support for tariffs and protectionism.<sup>231</sup>

These men were conservative but not in the sense in which that movement evolved in response to the New Deal and the rise of the administrative state. They did not ridicule governmental bureaucracy as bloated, inefficient, or bumbling. They did not mistrust the motives of government-employed experts. On the contrary, they trusted that a government guided by commercial far-sightedness could effectively collaborate with business to build an American colossus – an industrial behemoth unmatched on the world stage. And for that enterprise, they looked to Alexander Hamilton as inspiration.

In assessing their work, it is important to bear in mind that their policy preferences, derived indirectly from Hamilton's Report through an extended process of revision and reinvention, represented settled economic and trade doctrine for a long time. Thus a line could be drawn from Henry Clay's advocacy of tariffs and internal improvements as part of his "American System" in the 1820s and 1830s, to President William McKinley's tariff policies in the 1890s.<sup>232</sup> It was left to James Brown Scott to draw that line at the beginning of the twentieth century, when he wrote that "[Hamilton's] Report is the foundation of the American system."<sup>233</sup>

## B. The Progressives' Turn

It was the progressives' turn next to weigh in. Charles Beard (1874-1948) is often regarded as among the most influential constitutional historians of the first half of the twentieth century.<sup>234</sup> While his account of

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<sup>231</sup> Christine Margerum Harlen, *A Reappraisal of Classical Economic Nationalism and Economic Liberalism*, 43 INT'L STUD. Q. 733, 734–35 (1999).

<sup>232</sup> JON D. SCHAFF, ABRAHAM LINCOLN'S STATESMANSHIP AND THE LIMITS OF LIBERAL DEMOCRACY 81 (2019); QUENTIN R. SKRABEC, JR., WILLIAM MCKINLEY: APOSTLE OF PROTECTIONISM 21–22 (2008).

<sup>233</sup> James Brown Scott, *Alexander Hamilton*, in GREAT AMERICAN LAWYERS 367, 424–25 (William Draper Lewis, ed. Vol. I., 1907).

<sup>234</sup> CLYDE W. BARROW, MORE THAN A HISTORIAN: THE POLITICAL AND ECONOMIC THOUGHT OF CHARLES A. BEARD 1–2 (2000).

the economic origins of the American Constitution has been questioned in recent decades,<sup>235</sup> his other writings on the Founding remain valuable for the ways in which he connected the personal economic interests and motivations of the framers with specific political and constitutional outcomes.<sup>236</sup>

Beard took a more jaundiced view of Alexander Hamilton, whom he viewed not as a crusader for the common good, but as an effective advocate for the interests of the creditor class.<sup>237</sup> Beard's interpretation of the Report must be fitted within this larger perspective. He saw it as reflecting Hamilton's class interests and class prejudices: "On account of his connections, his sympathies, his interests, and his notions of political economy, he looked upon the advancement of industries as a necessary part of national greatness."<sup>238</sup>

Still, Beard remained balanced in his account. For better or for worse, although Beard was genuinely skeptical of the capitalist project, he exalted Hamilton as "the colossus of the new system."<sup>239</sup> And even though Beard doubted Hamilton's motives and sympathized with the debt-oppressed small freeholders of New England and the urban artisans of the age,<sup>240</sup> he did concede that Hamilton's desire to secure true national unity was a laudable objective, and that he deserved to be ranked "among the great statesmen of all time."<sup>241</sup>

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<sup>235</sup> For a sampling of evaluations, see John Patrick Diggins, *Class, Classical, and Consensus Views of the Constitution*, 55 UNIV. CHI. L. REV. 555, 555–56 (1988), (situating Beard's work in larger currents of twentieth-century constitutional historiography); Jac C. Heckelman & Keith Dougherty, *An Economic Interpretation of the Constitutional Convention of 1787 Revisited*, 67 J. ECON. HIST. 829–848 (2007), (a qualified reaffirmation of Beard's thesis). Cf., CHARLES A. BEARD, *AN ECONOMIC INTERPRETATION OF THE CONSTITUTION OF THE UNITED STATES* (1913) (expressing Beard's original views on the subject).

<sup>236</sup> JOSEPH L. ESPOSITO, *PRAGMATISM, POLITICS, AND PERVERSITY: DEMOCRACY AND THE AMERICAN PARTY BATTLE xvii–xviii* (2012).

<sup>237</sup> D.W. Brogan, *The Quarrel Over Charles Austin Beard and the American Constitution*, 18 ECON. HIST. REV. 199, 208 (1965).

<sup>238</sup> CHARLES A. BEARD, *ECONOMIC ORIGINS OF JEFFERSONIAN DEMOCRACY* 129 (1915).

<sup>239</sup> ROBERT ELDON BROWN, *CHARLES BEARD AND THE CONSTITUTION: A CRITICAL ANALYSIS OF "AN ECONOMIC INTERPRETATION OF THE CONSTITUTION"* 79 (1956).

<sup>240</sup> *Id.* at 226–28.

<sup>241</sup> BEARD, *supra* note 238, at 131. The progressive historian Vernon Louis Parrington (1871–1929) was more forceful and one-sided in his conclusions

Nathan Schachner (1895-1955) was a lawyer and an inexhaustible author, who began his career as a writer of pulp fiction,<sup>242</sup> graduated to science fiction,<sup>243</sup> and finally closed his days as a substantial and serious political biographer.<sup>244</sup> He was a proponent of the movement known as “technocracy.”<sup>245</sup> It is said that Schachner “wrote the first true technocratic

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on Hamilton. Hamilton accepted “the principle of class domination.” VERNON LOUIS PARRINGTON, *MAIN CURRENTS IN AMERICAN THOUGHT: AN INTERPRETATION OF AMERICAN LITERATURE FROM THE BEGINNINGS TO 1920* (1987). He realized before others did the implications of the Industrial Revolution and sought to position the United States accordingly. *Id.* at 305. His *Report on Manufactures* was intended to effectuate that vision: “He accepted frankly the principle of exploitation. He was convinced that the interests of the manufacturers were one with the national interests, and he proposed to put the paternal power of the government behind them.” *Id.* On Parrington’s politics, see James L. Colwell, *The Populist Image of Vernon Louis Parrington*, 49 *MISS. VALLEY HIST. REV.* 52, 52–66 (1962). Parrington’s work “revealed a sense of moral outrage . . . far greater than had yet appeared in Beard’s writings.” DAVID NOBLE, *HISTORIANS AGAINST HISTORY: THE FRONTIER THESIS AND THE NATIONAL COVENANT IN AMERICAN HISTORICAL WRITING SINCE 1830* 104 (1965). *Cf.* Max Lerner, *Constitution and Court as Symbols*, 46 *YALE L. J.* 1290, 1300 (1937), who sees the *Report* as the consummate betrayal of the ideals of the American Revolution in favor of a “nationalist government of the propertied minority.” *Id.*

<sup>242</sup> Paul A. Carter, *From “Nat” to “Nathan:” The Liberal Arts Odyssey of a Pulpster*, in *STYLES OF CREATION: AESTHETIC TECHNIQUE AND THE CREATION OF FICTIONAL WORLDS* 58–78 (George Edgar Slusser and Eric B. Rabkin eds., 1992). On his legal career, see *Id.* at 72. In the 1930s, his science fiction writing assumed a political coloration, as he warned against Hitler and pushed for racial justice at home. Albert I. Berger & Mike Ashley, *Analog Science Fiction/Science Fact*, in *SCIENCE FICTION, FANTASY, AND WEIRD SCIENCE MAGAZINES* 60, 62 (Marshall B. Tymn and Mike Ashley eds., 1985).

<sup>243</sup> He served as President of the American Rocket Society and as Secretary of the American Interplanetary Society. See John Cheng, *ASTOUNDING WONDER: IMAGINING SCIENCE AND SCIENCE FICTION IN INTERWAR AMERICA* 251–52 (2012); and Paul A. Carter, *Rockets to the Moon: A Dialogue Between Fiction and Reality*, 15 *AM. STUD.* 31, 35 (1974).

<sup>244</sup> About his biography of Thomas Jefferson, a reviewer commented that Schachner “ha[d] written the best completed life of the celebrated Virginian.” Clarence L. Ver Steeg, *Book Note*, 9 *Wm. & Mary Q.* 435 (1952) (reviewing NATHAN SCHACHNER, *THOMAS JEFFERSON: A BIOGRAPHY*), (emphasis in original). Regarding his work on Aaron Burr, a reviewer added: “Mr. Schachner’s biography . . . is a praiseworthy addition to the literature of American history. An amazing mass of new evidence has been marshaled.” W.F. McCaleb, *Book Note*, 43 *AM. HIST. REV.* 901 (1938) (reviewing Nathan Schachner, *AARON BURR A BIOGRAPHY*).

<sup>245</sup> ANDREW ROSS, *STRANGE WEATHER: CULTURE, SCIENCE, AND*

science fiction story.”<sup>246</sup> But Schachner aspired to be more than a fiction writer. He was a lawyer, after all, and his constitutional philosophy was a kind of default Rooseveltian progressivism.<sup>247</sup>

It is somehow fitting that a principal inventor of the genre of technocracy should be drawn to Alexander Hamilton. Thus in 1946, he published a generally well-regarded biography of Alexander Hamilton, in which he took the position that the Report on Manufactures was “perhaps [Hamilton’s] greatest report.”<sup>248</sup> Hamilton had lavished his attention upon this Report – “carefully, painstakingly, and incessantly gathering materials on which to base such a report.”<sup>249</sup> And the Report’s depth, and quality, and sophistication more than repaid his labors.

In the final analysis, Schachner asserted, Hamilton’s proposals for tariffs and subsidies had to be read as an extension of his reports on public credit and the Bank. And if one read the reports as constituting a unity, then one might catch a glimpse of Hamilton’s breath-taking vision for the nation: “With a sound financial structure, with a national bank to make it viable, with a prosperous hum of machinery rising from every city and town in the land, he felt that the future might be faced with a degree of confidence hitherto unknown.”<sup>250</sup> The Report, Schachner noted, was temporarily defeated by agrarian – particularly southern agrarian – interests, but Hamilton’s “logic moved the nation steadily along the lines of industrialization” until the agrarian cause was finally vanquished at the Civil War.<sup>251</sup>

One can criticize Schachner’s historiography as simplistic. It is a well-told tale of good and evil, with Hamilton ultimately on the side of the angels. But as evidence of a popular consensus about Hamilton’s contributions to public life – at least in progressive circles in the immediate post-World-War-II era, Schachner’s biography meets and exceeds that

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TECHNOLOGY IN THE AGE OF LIMITS 117 (1991); Mike Ashley, *Science Fiction Magazines: The Crucible of Change*, in A COMPANION TO SCIENCE FICTION 60, 64 (David Seed, ed. 2005).

<sup>246</sup> MIKE ASHLEY & ROBERTA A.W. LOWNDES, THE GERNSBACK DAYS: THE EVOLUTION OF MODERN SCIENCE FICTION FROM 1911 TO 1936, at 210 (2004).

<sup>247</sup> Lawrence Daffan Gilmer, *Book Note*, 31 TEX. L. REV. 88, 90-91 (1952) (reviewing NATHAN SCHACHNER, THOMAS JEFFERSON).

<sup>248</sup> NATHAN SCHACHNER, ALEXANDER HAMILTON 275 (1946).

<sup>249</sup> *Id.* at 274.

<sup>250</sup> *Id.* at 277.

<sup>251</sup> *Id.* at 278.

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Broadus Mitchell (1892-1988) was a Southern liberal, critical of his region's habits and eager to rehabilitate its institutions and economy.<sup>252</sup> He was an economic historian “torn between journalism and academics, between the roles of the reforming publicist and methodical scholar.”<sup>253</sup> He taught both at universities and, in the 1920s and 1930s, in smaller, free-form, so-called labor colleges or workers conferences.<sup>254</sup> He was a passionate proponent of civil rights and equality.<sup>255</sup> He advocated for an American form of socialism,<sup>256</sup> wrote an important history of the Great Depression and the New Deal,<sup>257</sup> and ran as the Socialist candidate for Governor of Maryland in 1934.<sup>258</sup> Later in life, he would warmly endorse the welfare state, recommending it as a permanent – and good – feature of American life.<sup>259</sup>

It was this set of commitments and preconceptions that informed Mitchell's work on Hamilton. In his biography of Hamilton, Mitchell dwelt on the enormity of the task that the Secretary of the Treasury had embarked upon.<sup>260</sup> Of all of Hamilton's reports, the one on Manufactures was aimed not at the creation of a particular public institution, but at the health of the

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<sup>252</sup> Daniel Joseph Singal, *Broadus Mitchell and the Persistence of New South Thought*, 45 J. S. HIST. 353, 366–69 (1979).

<sup>253</sup> Jacquelyn Dowd Hall, *Broadus Mitchell: Economic Historian of the South*, in *READING SOUTHERN HISTORY: ESSAYS ON INTERPRETERS AND INTERPRETATIONS* 25 (Glenn Feldman, ed., 2001) (reprt. from 45 RADICAL HIST. REV. 31–38 (1989)).

<sup>254</sup> AMY J. WAN, *PRODUCING GOOD CITIZENS: LITERACY TRAINING IN ANXIOUS TIMES* 80-81 (2014); FRANCESCA POLLETTA, *FREEDOM IS AN ENDLESS MEETING: DEMOCRACY IN AMERICAN SOCIAL MOVEMENTS* 35 (2002).

<sup>255</sup> C. FRASER SMITH, *HERE LIES JIM CROW: CIVIL RIGHTS IN MARYLAND* 145 (2008); and ANDOR SKOTNES, *A NEW DEAL FOR ALL? RACE AND CLASS STRUGGLES IN DEPRESSION-ERA BALTIMORE* 127 (2013).

<sup>256</sup> BROADUS MITCHELL, *THE WORLD'S WEALTH: ITS USE AND ABUSE* 706 (1932), (arguing on behalf of “the common ownership and democratic control of the social means of production”) (emphasis omitted). *Id.*

<sup>257</sup> BROADUS MITCHELL, *THE DEPRESSION DECADE: FROM NEW ERA THROUGH NEW DEAL, 1929-1941* (2015) (reprt. 1947 ed.).

<sup>258</sup> Joan Cook, *Broadus Mitchell, 95, Professor, Historian, and Hamilton Authority*, N.Y. TIMES (Apr. 30, 1988).

<sup>259</sup> Broadus Mitchell, *Socialism, American Style*, in *TOWARD A SOCIALIST AMERICA: A SYMPOSIUM OF ESSAYS* 67, 72–74 (Helen Alfred, ed., 1958).

<sup>260</sup> BROADUS MITCHELL, *ALEXANDER HAMILTON: THE NATIONAL ADVENTURE, 1788-1804*, at 139 (1962).



nation as a whole.<sup>261</sup> It came “nearest to planning for the future economy of the country.”<sup>262</sup> Mitchell took note of the obstacles that Hamilton faced – a public preference for agriculture, mistrust of “the central government,” and “the lack of capital, industrial experience, and skilled labor.”<sup>263</sup> Furthermore, he had to confront the opposition of sectional interests in the South.<sup>264</sup> Hamilton sought to address all of these problems in a report designed not to be implemented all at once, but over time.<sup>265</sup> And he was remarkably successful, his arguments remaining persuasive for the next “century and a half.”<sup>266</sup>

In lectures delivered at Columbia University, Mitchell explored what the Report on Manufactures meant for Hamilton’s broader theory of government: “Hamilton was a collectivist in the best mercantilist tradition of utilizing governmental guidance, with restraint here, promotion there . . . . His system was grounded in technical considerations. Combination of all elements of the community for national development was his aim.”<sup>267</sup> In an article published shortly before his death, Mitchell explained that Hamilton’s purpose was the achievement of national unity through a shared spirit of industriousness: “His totem was cooperation, mutual help, in a word, union. He was the prime collectivist of that crucial stage of American history.”<sup>268</sup>

Mitchell was a supporter of a robust role for the government in superintending the economy and he read into Hamilton’s Report constitutional warrant for these views. In doing this, he was in keeping with the tradition, begun by Lodge, of investigating Hamilton’s economic policies as much for historical insight as for material to be used in contemporary debates over economic policy and constitutional governance. The progressives, as much as the conservatives, wanted to claim Hamilton as their own. Was such a move justified on the historical record? The professional historian responds by noting that every historical figure is a creature of time and context. But that said, certainly one could extract from

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<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

<sup>263</sup> *Id.*

<sup>264</sup> *Id.* at 140.

<sup>265</sup> *Id.* at 139.

<sup>266</sup> MITCHELL, *supra* note 260, at 139.

<sup>267</sup> BROADUS MITCHELL, *HERITAGE FROM HAMILTON* 35 (1957).

<sup>268</sup> BROADUS MITCHELL, *Alexander Hamilton, Executive Power, and the*

Hamilton's Report evidence that he supported an activist role for government. In that sense, Lodge and Mitchell differed over the ends to which Hamilton's "energetic" government might be put, but they did not disagree on fundamentals.

### C. Contemporary Eclecticism

#### 1. Economic and Political Historians

The historiography of the most recent half-century, on the other hand, has proven to be more eclectic. We have seen efforts to situate Hamilton in his time and place, to contextualize his work, and to historicize it. But we also encounter attempts to utilize Hamilton's Report to justify particular political or policy positions in the here-and-now. Both enterprises have their own legitimacy. In assessing these works, however, one does well to be able to tell them apart.

Clinton Rossiter (1917-1970) was among a group of historians and political theorists who came of age in the early days of the Cold War. He was a conservative "who would spend his life attempting to define an attractive American conservatism."<sup>269</sup> He simultaneously supported the creation of a robust central government to handle the contingencies of what he anticipated would be a long and probably bloody struggle with communism;<sup>270</sup> and he sought in his scholarship to create a consensualist interpretation of early American constitutional and legal history, so as better to promote national unity in troubled times.<sup>271</sup>

Still, he recognized that the Report on Manufactures was controversial. In his major work, Alexander Hamilton and the Constitution, Rossiter was keenly interested in situating Hamilton within the pantheon of

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*New Nation*, 17 PRESIDENTIAL STUD. Q. 329, 330 (1987).

<sup>269</sup> LISLE A. ROSE, *THE COLD WAR COMES TO MAIN STREET: AMERICA IN 1950* 50 (1999).

<sup>270</sup> ANDREW D. GROSSMAN, *NEITHER DEAD NOR RED: CIVIL DEFENSE AND AMERICAN POLITICAL DEVELOPMENT IN THE EARLY COLD WAR* 110 (2001).

<sup>271</sup> John Higham, *Beyond Consensus: The Historian as Moral Critic*, 67 AM. HIST. REV. 609, 613 (1962); John Higham, *The Cult of the "American Consensus: " Homogenizing Our History*, COMMENTARY (Feb. 1, 1959), <https://www.commentary.org/articles/john-higham/the-cult-of-the-american-consensushomogenizing-our-history/>; and Colin Gordon, *Crafting a Usable Past: Consensus, Ideology, and Historians of the American Revolution*, 46 WM. & MARY Q. 671, 674. (1989).

the Founders of the American constitutional tradition.<sup>272</sup> And he situated the Report on Manufactures firmly within Hamilton's larger project.<sup>273</sup> Hamilton, as Rossiter read him, was the great proponent of "a government of energy and tone,"<sup>274</sup> and as someone who placed "his hopes for such a government on a spacious view of the Constitution."<sup>275</sup>

For Rossiter, Hamilton's Report on Manufactures fit within this larger framework. Hamilton broadly construed the Constitution's mandate to Congress to "provide for the . . . general Welfare of the United States."<sup>276</sup> He took as well "a large view of the power to spend,"<sup>277</sup> and insisted that "[a] legislature empowered to 'regulate commerce' was a legislature empowered to police, tax, and encourage – and, if necessary, discourage – all those undertakings covered by the words 'trade,' 'manufacturing,' 'finance,' and even 'agriculture.'"<sup>278</sup> The Report on Manufactures was the final and consummate expression of this constitutional paradigm and aimed at creating the conditions for "prosperity," and "the primacy of the Union."<sup>279</sup>

John Chester Miller, for his part, had studied with that conservative expositor of early American history, Samuel Eliot Morison.<sup>280</sup> Like his mentor, Miller had a penchant for "safe," establishment-oriented interpretations of the past, a quality conspicuously on display in his

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<sup>272</sup> See Merrill D. Peterson, Book Note, 22 WM. & MARY Q. 141, 142 (1965) (reviewing CLINTON ROSSITER, ALEXANDER HAMILTON AND THE CONSTITUTION), ("the point Rossiter is driving at is that the Constitution of today – an indulgent document of national power and purpose – stems from Hamilton").

<sup>273</sup> CLINTON ROSSITER, ALEXANDER HAMILTON AND THE CONSTITUTION 203–05 (1964).

<sup>274</sup> *Id.* at 71.

<sup>275</sup> *Id.* at 71–72.

<sup>276</sup> *Id.* at 201–02. *Cf.*, U.S. CONST., art. I, § 8, cl. 1 (quoted material).

<sup>277</sup> ROSSITER, *supra* note 273 at 73.

<sup>278</sup> *Id.* at 215.

<sup>279</sup> *Id.* at 92. *Cf.*, Gottfried Dietze, Book Review, *Clinton Rossiter, Alexander Hamilton and the Constitution*, 17 STAN. L. REV. 181, 184 (1964) (seeing Hamilton's ultimate purpose as not the empowerment of government but "the freedom of the individual," which could only be secured through "a strong nation"). *Id.*

<sup>280</sup> Bruce Lambert, *John C. Miller; Writer and Professor of American History*, N.Y. TIMES (Dec. 5, 1991) (on the Samuel Eliot Morison connection); *cf.*, Wilcomb E. Washburn, *Samuel Eliot Morison, Historian*, 36 WM. & MARY Q. 325 (1979) (reviewing Morison's career).

treatment of the Thomas Jefferson/Sally Hemings matter.<sup>281</sup> Still, his biography of Alexander Hamilton received high marks for its commitment to thoroughness and objectivity.<sup>282</sup> Miller made several important points about the Report on Manufactures. First, the Report was visionary: it “contained the embryo of modern America.”<sup>283</sup> Second, Hamilton foresaw that his Report would lead to the centralization of government, and he welcomed this outcome.<sup>284</sup> Third, he was willing, even eager, to reject free-market principles and laissez-faire economics in favor of “the wisdom of the government.”<sup>285</sup> Fourth, Hamilton’s commitment to activist government did not extend to building anything like a social safety net.<sup>286</sup> He was, after all, Miller points out, an exponent of child labor.<sup>287</sup> Finally, Hamilton was prepared to extend the constitutional powers of government to heights sure to attract vigorous opposition.<sup>288</sup>

In recent decades, both Richard Brookhiser and Michael Lind have offered more ideological perspectives on Hamilton’s Report. Brookhiser (b. 1955) “is a conservative” and has served as “a long time senior editor of National Review.”<sup>289</sup> He is also deeply conversant in the history of the Founding era. In 2006, he published a topical volume entitled What Would the Founders Do? Our Questions Their Answers.<sup>290</sup> Generation after generation, Brookhiser pointed out, the American political order turned to the Founders for guidance, support, wisdom, encouragement. Abraham

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<sup>281</sup> Annette Gordon-Reed, *Racism and the Craft of History*, 26 REVIEWS IN AM. HIST. 510, 512–13 (1998).

<sup>282</sup> Miller’s biography went through two editions. The first was entitled ALEXANDER HAMILTON: PORTRAIT IN PARADOX (1959); a revised and expanded version was subsequently published under the title ALEXANDER HAMILTON AND THE GROWTH OF THE NEW NATION (2004). For a sampling of reviews, see Frederick B. Tolles, Book Review, *Alexander Hamilton: Portrait In Paradox*, *Pennsylvania Magazine of History and Biography* 84 Penn. MAG. HIST. & BIOGRAPHY 337 (1960); and Merrill D. Peterson, Book Review, *Alexander Hamilton: Portrait in Paradox*, 17 WM. & MARY Q. 249 (1960).

<sup>283</sup> MILLER, *supra* note 282, at 289.

<sup>284</sup> MILLER, *supra* note 282, at 290.

<sup>285</sup> MILLER, *supra* note 282, at 292.

<sup>286</sup> MILLER, *supra* note 282, at 287.

<sup>287</sup> MILLER, *supra* note 282, at 287–288.

<sup>288</sup> MILLER, *supra* note 282, at 296–298.

<sup>289</sup> John Samples, Book Review, *James Madison*, 32 CATO J. 221, 222 (2012) (“conservative”) (“National Review”).

<sup>290</sup> RICHARD BROOKHISER, *WHAT WOULD THE FOUNDERS DO? OUR QUESTIONS, THEIR ANSWERS* (2006).

Lincoln did,<sup>291</sup> as did Franklin Roosevelt,<sup>292</sup> Martin Luther King,<sup>293</sup> and Bill Clinton.<sup>294</sup> People still do, Brookhiser, asserted, holding up as proof a talk he delivered on Alexander Hamilton “at a financial services firm on Park Avenue . . . . Out of two hundred people, a dozen asked questions. Four wanted Hamilton’s opinions about a contemporary issue.”<sup>295</sup>

Brookhiser’s biography of Hamilton was not intended, precisely, to answer discrete and pressing questions of the moment. What would Hamilton think of capital gains? or the estate and gift tax? are not the kinds of questions that Brookhiser grappled with. His analysis, is rather, a more conventional, extended and focused biography. But even as he reconstructed the details of Hamilton’s life, Brookhiser kept in mind issues likely to interest contemporary readers. And this was nowhere more true than in his discussion of the Report on Manufactures.

For Brookhiser, the Hamilton of the Report on Manufactures was an “idealist.”<sup>296</sup> Hamilton aimed at the creation of “a diverse economy,” which allowed individuals to maximize their particular talents and abilities.<sup>297</sup> More importantly, he sought an energetic economy: “Busy, rouse, exert, energy, effort, enterprise, strongest, active, activity, vigor – these are all Hamiltonian touchstones.”<sup>298</sup> For Brookhiser the Hamiltonian biographer, it seems that the Report on Manufactures was less about activist government, and important rather in the way it inculcated in market participants the habits of diligence, persistence, and personal responsibility, and extended the opportunity for economic advancement to an expanding work force.<sup>299</sup>

Michael Lind (b. 1962), on the other hand, defies easy categorization. He is among the most intellectually ambitious and

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<sup>291</sup> *Id.* at 2.

<sup>292</sup> *Id.* at 3.

<sup>293</sup> *Id.*

<sup>294</sup> *Id.* at 3–4.

<sup>295</sup> *Id.* at 2.

<sup>296</sup> RICHARD BROOKHISER, *ALEXANDER HAMILTON, AMERICAN* 97 (New 1999).

<sup>297</sup> *Id.* at 105.

<sup>298</sup> *Id.* (emphasis in original).

<sup>299</sup> RICHARD K. MATTHEWS, BOOK REVIEW, *ALEXANDER HAMILTON, AMERICAN*, *AMERICAN HISTORICAL REVIEW* 539–541 (2000). Brookhiser was even relatively untroubled by Hamilton’s endorsement of child labor, reminding readers that Hamilton himself had gone to work at the age of nine. BROOKHISER, *supra* note 296, at 95.

iconoclastic political theorists of our age. He correctly perceives that the world is entering a new phase of discordant nationalism, but he sees this as something to be acknowledged and managed as a perhaps inevitable reaction to “economic globalism and liberal individualism.”<sup>300</sup> He has encouraged American policy-makers once again to embrace “self-confident, unapologetic American nationalism.”<sup>301</sup> He has defended protectionist trade policies as a means of promoting growth in “the developing world,”<sup>302</sup> pronounced the present global free-trade regime dead,<sup>303</sup> and recommended protectionist tariffs as a practice that might also help to revitalize a United States much in need of reinvigoration.<sup>304</sup> Like Alexander Hamilton in the eighteenth century, Lind perceives a melding together of global economic and geostrategic competition into a single force.<sup>305</sup> Lind’s word for this multi-tiered competition is “geoeconomics.”<sup>306</sup> His recommendation is that nations must awaken to this reality, and find strength in “a new economic nationalism.”<sup>307</sup> In 2020, he published an important book, The New Class War: Saving Democracy From the Managerial Elite.<sup>308</sup> Lind finds in American electoral politics of the previous eight or ten years evidence of a growing separation of classes – a college-educated elite, and an

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<sup>300</sup> Michael Lind, *When Nationalism Strikes Back*, THE NAT’L INT., (Nov./Dec. 2016) (“far from being an outmoded relic of the past, nationalism is flourishing. It is the non-national state that is an increasingly endangered species”).

<sup>301</sup> Michael Lind, *The Case for American Nationalism*, THE NAT’L INT (May-June 2014).

<sup>302</sup> Michael Lind, *Free-Trade Fallacy*, PROSPECT MAG. (Jan. 20, 2003).

<sup>303</sup> Michael Lind, *This Is What the Future of American Politics Looks Like*, POLITICO MAG. (May 22, 2016); and Michael Lind, *The Post-Cold War Era Is Over*, SALON (July 3, 2012).

<sup>304</sup> Robert Atkinson & Michael Lind, *Econ 101 Is Killing America*, SALON (July 8, 2013); Michael Lind, *The American Century Is Over: How Our Country Went Down in a Blaze of Shame*, SALON (July 12, 2014); cf., Michael Lind, *American Grand Strategy: Disguising Decline*, NAT’L INT. (July 2, 2022) (expressing the fear that “[t]he United States is a declining force in global commerce and global diplomacy” while simultaneously expressing hopes for reinvigoration).

<sup>305</sup> Michael Lind, *The Return of Geoeconomics*, NAT’L INT. (Oct. 13, 2019). Cf., Michael Lind, *Robert Kagan’s Big Wrong Idea*, WASH. POST (Mar. 26, 2019) (criticizing Robert Kagan for wrongly perceiving the nature of global competition).

<sup>306</sup> Lind, *The Return of Geoeconomics*, *supra* note 305.

<sup>307</sup> Lind, *The Return of Geoeconomics*, *supra* note 305.

<sup>308</sup> MICHAEL LIND, *THE NEW CLASS WAR: SAVING DEMOCRACY FROM THE MANAGERIAL ELITE* (2020).

increasingly alienated working class.<sup>309</sup> This separation of the classes is the result, he proposes, of the replacement of “democratic pluralism” by “technocratic neoliberalism.”<sup>310</sup> His recommended cure: greater, and more authentic, democratization in “the economy, politics, and culture.”<sup>311</sup>

In all of this work, Alexander Hamilton has long held a fascination for Lind. In 1995, he argued that it was Hamilton’s endorsement of “[f]ederal subsidies and protective tariffs” in his Report on Manufactures that allowed the United States to grow into a major world power.<sup>312</sup> After all, American history could have turned out very differently: “A Balkanized, underdeveloped, non-industrial America, supplying food, timber, and energy to industrial Europe . . . was always a possible alternative.”<sup>313</sup> That America became industrialized at all was thus a tribute to Hamilton’s economic and constitutional vision. This is a point Lind pursued in greater depth in his magisterial history of the American economy, Land of Promise.<sup>314</sup> Hamilton, on Lind’s account, was “The Mastermind.”<sup>315</sup> Hamilton was far-sighted and unafraid to look for inspiration from foreign lands. It was, after all, the European experience that “provided Hamilton with a model for state-sponsored economic modernization.”<sup>316</sup> The Report on Manufactures was the final expression of his ambition for the new American nation, a rejection of laissez-faire economics, and a blueprint for future growth and development fostered and directed by far-sighted governance.<sup>317</sup>

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<sup>309</sup> Michael Lind, *Palliative Liberalism Can’t Cure Our Ailing Working Class*, AM. CONSERVATIVE (Mar. 6, 2020) (rejecting “[t]he implicit theory of technocratic neoliberalism [that] the U.S. and other Western societies at this point are essentially classless societies”).

<sup>310</sup> LIND, *supra* note 308, at xii.

<sup>311</sup> LIND, *supra* note 308, at xv. Cf., Jonathan Rutherford, *The New Class War: Michael Lind On How the Rise of the Liberal “Overclass” Triggered Trumpism, Brexit, and the Return of the Nation-State*, THE NEW STATESMAN (Jan. 7, 2023) (“education, not income, is the major dividing line between classes in the modern West”).

<sup>312</sup> MICHAEL LIND, *THE NEXT AMERICAN NATION: THE NEW NATIONALISM AND THE FOURTH AMERICAN REVOLUTION* 1–15 (1995).

<sup>313</sup> Michael Lind, *Founding Financiers: The Immigrant Bankers Who Built the U.S. Economy*, AM. CONSERVATIVE (Oct. 29, 2012).

<sup>314</sup> MICHAEL LIND, *LAND OF PROMISE: AN ECONOMIC HISTORY OF THE UNITED STATES* (2012).

<sup>315</sup> *Id.* at 30.

<sup>316</sup> *Id.* at 33.

<sup>317</sup> *Id.* at 38.

Like Michael Lind, Christian Parenti, Professor of Economics at John Jay College of Criminal Justice in New York, is a politically engaged writer, though his perspective differs significantly from Lind's. Writing in 1999, years before the many police transgressions of the 2010s and 2020s, Parenti, in Lockdown America, looked to the manifold ways politics and politicians brought on the crisis of militarized police departments and the carceral state.<sup>318</sup> In The Freedom: Shadows and Hallucinations in Occupied Iraq, Parenti presented a vivid first-hand account of the ugly underside of the American invasion of Iraq – broken power grids, quotidian humiliations, and American soldiers plagued with misgivings and self-doubt about their mission.<sup>319</sup> In Tropic of Chaos, Parenti connected the scientific reality of climate change with the social reality of bloodshed, war, violence, and the dislocation of peoples in those regions particularly afflicted.<sup>320</sup>

In each of these books there is an urgency. They each represent both the vivid retelling of a social outrage and a summons to action. Parenti's book, Radical Hamilton, is, at least at first blush, different in tone and texture. Parenti moved away from the immediate and the topical and instead proposed to reconstruct the political commitments of Alexander Hamilton.<sup>321</sup> It is a book firmly situated in an eighteenth-century milieu and the factors that helped shape Hamilton's personality and political outlook. Hamilton, Parenti notes, came to the United States as a penniless orphan who felt "an acute sense of vulnerability."<sup>322</sup> He was a student of power – he had to be a student of power – and he wished both to constrain unaccountable power within institutions and use those same institutions to propel social and economic improvements.<sup>323</sup>

Hamilton also feared national fragmentation and political weakness, which Parenti traces to his traumatic experiences in the early phase of the American Revolution – Washington's army nearly collapsed

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<sup>318</sup> CHRISTIAN PARENTI, LOCKDOWN AMERICA: POLICE AND PRISONS IN THE AGE OF CRISIS (1999).

<sup>319</sup> CHRISTIAN PARENTI, THE FREEDOM: SHADOWS AND HALLUCINATIONS IN OCCUPIED IRAQ (2004).

<sup>320</sup> CHRISTIAN PARENTI, TROPIC OF CHAOS: CLIMATE CHANGE AND THE NEW GEOGRAPHY OF VIOLENCE (2011).

<sup>321</sup> CHRISTIAN PARENTI, RADICAL HAMILTON: ECONOMIC LESSONS FROM A MISUNDERSTOOD FOUNDER (2020).

<sup>322</sup> *Id.* at 11.

<sup>323</sup> *Id.*



during its winter at Valley Forge, and bickering and back-stabbing among the officer corps sapped morale and drained fighting strength.<sup>324</sup> Hamilton, as Washington's trusted aide-de-camp, experienced all of this and vowed that the new nation that somehow seemingly stumbled to an unexpected victory against a great colonial power must have the resources needed to maintain its hard-won independence.<sup>325</sup>

Of particular significance to Parenti – it is recounted in vivid detail – was a physical and emotional breakdown Hamilton suffered at the end of 1777 as he came to realize the enormity of revolutionary cause.<sup>326</sup> He was “bedridden,” feared that “he was dying,” and spent a “two-month-long convalescence.”<sup>327</sup> Hamilton, Parenti believes, spent much of his recovery writing and reflecting on classical political themes, as his notebooks from that time were “full of ideas about democracy, state power, and economic development.”<sup>328</sup> The youthful Hamilton of this period, as Parenti portrays him, is unsure, anxious, fearful. But out of those anxieties emerged a personality steeled and determined to build enduring institutions.

The remainder of Parenti's book is given over to an account of Hamilton slowly erecting the constitutional and political structures needed to give life and force to a unified and forward-looking nation. The book culminates with a long chapter – a capstone, really – on the Report on Manufactures.<sup>329</sup> Parenti does a masterful job of evaluating Hamilton's refutation of the physiocrats, and points out that his meticulousness was driven by a concern to give southern representatives reason to support a policy of national industrialization.<sup>330</sup> But if Hamilton was occasionally delicate in his political maneuvering, his goal was clearly visible and understood by all. The United States must “invest in, and legislate for, a manufacturing revolution.”<sup>331</sup> Parenti was especially impressed with the Board Hamilton sought to have Congress establish. He was “proposing a massively powerful Board of Economic Planning” that would have operated much like Japan's post-World-War-II “Ministry of International

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<sup>324</sup> *Id.* at 21-34.

<sup>325</sup> *Id.* at 34-37.

<sup>326</sup> *Id.* at 29-30.

<sup>327</sup> PARENTI, *supra* note 321 (“bedridden,” p. 29); (“dying,” p. 30); (“convalescence,” p. 30).

<sup>328</sup> PARENTI, *supra* note 321, at 30.

<sup>329</sup> PARENTI, *supra* note 321, at 174-199.

<sup>330</sup> PARENTI, *supra* note 321, at 177-179.

Trade and Industry.”<sup>332</sup>

Parenti is particularly impressed with the comprehensiveness of the methods Hamilton proposed to promote the growth of commerce: “Hamilton’s means proper include protective tariffs, import bans, producer subsidies, export bans on key raw materials, import liberalization for strategic industrial inputs, prizes and patents for science and technological inventions, government regulation and inspection of product standards, development of transportation infrastructure, and a central bank.”<sup>333</sup> Such strategies, Parenti acknowledges, would serve developing nations well today, but the neoliberal managers of the International Monetary Fund and the World Bank would almost certainly frustrate any such repetition of Hamilton’s project.<sup>334</sup>

Parenti should be commended for producing a biography at once authentic to the historical Alexander Hamilton and timely in its recommendations. For Parenti, the climate crisis poses an emergency at least equal in scale and magnitude to that Hamilton confronted in the disheveled state of affairs that led to the calling of the Constitutional Convention in 1787. And Parenti would find in Hamilton’s biography and proposals a historiographical and constitutional warrant for concerted governmental action to address climate change.<sup>335</sup>

## 2. Academic Lawyers

Other economic and political historians have also had valuable insights on Hamilton and his Report on Manufactures,<sup>336</sup> though our interest

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<sup>331</sup> PARENTI, *supra* note 321, at 188.

<sup>332</sup> PARENTI, *supra* note 321, at 198.

<sup>333</sup> PARENTI, *supra* note 321, at 175.

<sup>334</sup> PARENTI, *supra* note 321, at 175. Parenti quotes the South Korean economist Ha-Joon Chang, who wrote that “if Hamilton were ‘the finance Minister of a developing country today, the IMF and World Bank would certainly have refused to lend money to this country and would be lobbying for his removal from office’” (quoting HA-JOON CHANG, *BAD SAMARITANS: THE MYTH OF FREE TRADE AND THE SECRET HISTORY OF CAPITALISM* 50 (2002)).

<sup>335</sup> PARENTI, *supra* note 321. *Cf.*, Christian Parenti, *Reading Hamilton from the Left*, *JACOBIN* (Aug. 26, 2014) (Climate change “requires a massive and immediate industrial transformation, which must be undertaken using the actually existing states and economies currently on hand. Such a project can only be led by the state – an institution that Hamilton’s writing and life’s work helps us to rethink”).

<sup>336</sup> See, for instance, RON CHERNOW, *ALEXANDER HAMILTON* (2004). For

should now shift to the work of academic lawyers. Pride of place must belong to James Willard Hurst (1910-1997), who taught for decades at the University of Wisconsin School of Law. "He became famous," one biographer noted, "because he developed an entirely new mode of thinking about American legal history."<sup>337</sup> His goal was "to discover how law had actually worked in the lives of Americans."<sup>338</sup> He wrote a number of books focused on this over-arching theme,<sup>339</sup> but our concern is with his law-review article, "Alexander Hamilton, Law-Maker."<sup>340</sup>

Hurst's article is complicated, and defies easy summary. But it can be said that it amounts, in part, to a careful reconstruction of the constitutional implications of the Report on Manufactures. Thus, regarding Hamilton's treatment of the Spending Power found in Article I, section 8, clause 1, of the Constitution, Hurst finds significant Hamilton's claim, articulated in the Report, that "the power to raise money is plenary and indefinite."<sup>341</sup> This was a constitutional position that was both elastic and capable of expansion to fit the evolving needs of the American nation. As

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Chernow, Hamilton's Report was the "capstone" of his reports to Congress. *Id.* at 374. It succeeded in stating "the theoretical case" for manufacturing, and amounted to a constitutional brief for an activist, interventionist government. *Id.* Hamilton viewed manufacturing as a primary vehicle for unsettling established hierarchies of position and privilege. He envisioned an "America [that] would be a meritocracy of infinite variety, with a diversified marketplace absorbing people from all nations and backgrounds." *Id.* at 376. "For Hamilton, the federal government had a right to stimulate business and also, when necessary, to restrain it." *Id.* at 378. Douglas Irwin, meanwhile, in his massively learned CLASHING OVER COMMERCE, IRWIN, *supra* note 35 provides important details about the political opposition that Hamilton encountered both in Congress and in George Washington's own cabinet on the Report on Manufactures. Thus one finds Thomas Jefferson "plott[ing] against the report" in a series of constitutional arguments he directed to President Washington himself. *Id.* at 83.

<sup>337</sup> Stanley N. Katz, *James Willard Hurst, 6 October 1910 - 18 June, 1997*, 144 PROC. AM. PHIL. SOC'Y 459, 459 (2000).

<sup>338</sup> *Id.* at 461.

<sup>339</sup> See, for instance, JAMES WILLARD HURST, LAW AND THE CONDITIONS OF FREEDOM IN THE NINETEENTH-CENTURY UNITED STATES (1956); JAMES WILLARD HURST, LAW AND ECONOMIC GROWTH: A LEGAL HISTORY OF THE LUMBER INDUSTRY IN WISCONSIN, 1836-1915 (1964); JAMES WILLARD HURST, JUSTICE HOLMES AND LEGAL HISTORY (1965); and JAMES WILLARD HURST, A LEGAL HISTORY OF MONEY IN THE UNITED STATES, 1774-1970 (1973).

<sup>340</sup> Hurst, *Alexander Hamilton*, *supra*, note 28, at 483-547.

<sup>341</sup> Hurst, *Alexander Hamilton*, *supra*, note 28, at 495 (quoting Hamilton's Report on Manufactures) (emphasis in original).

Hurst noticed: “Thus, whenever the leverage afforded by federal spending might advance a national public interest, Congress was entitled to spend, apart from whatever objectives it might pursue under the other powers particularly given it.”<sup>342</sup> This was an interpretation, Hurst added, that the Supreme Court ratified in United States v. Butler, in 1936.<sup>343</sup>

Hurst further established Hamilton’s importance to the economic history of the United States. His Report on Manufactures was built on the unexamined premise that economic production should be the paramount public value promoted and conserved through legislation and executive action.<sup>344</sup> Hamilton was so convincing on this score, Hurst acknowledges, that a single-minded emphasis on production became the great bias of American economic policy from the Founding era through the early and middle twentieth century.<sup>345</sup> Only in the mid-twentieth century did it become possible to raise “a broader range of values relevant to the quality of life.”<sup>346</sup>

Stephen M. Feldman is the Jerry H. Housel/Carl F. Arnold Distinguished Professor of Law at the University of Wyoming. He has written widely on constitutional themes,<sup>347</sup> most recently publishing Pack the Court! A Defense of Supreme Court Expansion.<sup>348</sup> In his article *Is the Constitution Laissez-Faire? The Framers, Original Meaning, and the Market*, he asks the question, precisely what sort of economic arrangements did the Founders see as most consistent with the Constitution that they had brought into being?<sup>349</sup>

Feldman began his investigation with an axiom: “originalist evidence – historical materials that illuminate the Founders’ intentions and original public meanings – can and should inform constitutional

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<sup>342</sup> Hurst, *Alexander Hamilton*, *supra*, note 28, at 495.

<sup>343</sup> Hurst, *Alexander Hamilton*, *supra*, note 28, at 495. Cf., *United States v. Butler*, 297 U.S. 1, 64-67 (1936).

<sup>344</sup> Hurst, *Alexander Hamilton*, *supra*, note 28, at 508.

<sup>345</sup> Hurst, *Alexander Hamilton*, *supra*, note 28, at 508.

<sup>346</sup> Hurst, *Alexander Hamilton*, *supra*, note 28, at 508-509.

<sup>347</sup> See, for instance, STEPHEN M. FELDMAN, *THE NEW ROBERTS COURT, DONALD TRUMP, AND OUR FAILING CONSTITUTION* (2017); AND STEPHEN M. FELDMAN, *NEOCONSERVATIVE POLITICS AND THE SUPREME COURT: LAW, POWER, AND DEMOCRACY* (2013).

<sup>348</sup> STEPHEN M. FELDMAN, *PACK THE COURT! A DEFENSE OF SUPREME COURT EXPANSION* (2021).

<sup>349</sup> Stephen M. Feldman, *Is the Constitution Laissez-Faire? The Framers, Original Meaning, and the Market*, 81 *BROOKLYN L. REV.* 1 (2015).

interpretation.”<sup>350</sup> Feldman’s further argument is that one can establish, on originalist grounds, that the Framers did not intend to constitutionalize a laissez-faire economic order.<sup>351</sup>

Feldman marshals a number of significant arguments to prove his thesis.<sup>352</sup> Prominent among the proofs he elicited is a careful reading of Hamilton’s Report On Manufactures.<sup>353</sup> Feldman shows that for Hamilton, the laissez-faire position – a perfectly free and orderly marketplace – was a utopian dream.<sup>354</sup> It simply was an abstraction, not something real, and Hamilton was very much a realist.<sup>355</sup> Hamilton certainly sought the support of the wealthy elements of society, he was an elitist after all. But he did not mean for the wealthy to control the government or even operate freely in the absence of governmental restraint.<sup>356</sup> On the contrary, he meant to use government to channel their impulses in the most socially beneficial directions.<sup>357</sup>

Finally, there is the article by James Chen and Daniel J. Gifford on industrial policy and the law. Professor Chen now holds the Justin Smith Morrill Chair in Law at Michigan State University, although at the time he co-authored the article in question he was a member of the faculty at the University of Minnesota. Professor Gifford is the Robins Kaplan Professor of Law Emeritus at the University of Minnesota School of Law, where he has taught since the late 1970s.

In their article, *Law as Industrial Policy: Economic Analysis in a New Key*, Chen and Gifford mean to explore the relationship of law and American “industrial policy.”<sup>358</sup> They take issue with those who claim that America lacks an industrial policy.<sup>359</sup> “Industrial policy need not be the child of a centrally planned economy, they write.”<sup>360</sup> On the contrary,

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<sup>350</sup> *Id.* at 4.

<sup>351</sup> *Id.* at 5.

<sup>352</sup> Thus Feldman argues that the Founding generation could not have been laissez-faire in their economic convictions considering their acceptance of slavery – compelled labor – as a constitutionally-protected interest. *Id.* at 19-26.

<sup>353</sup> *Id.* at 31-35.

<sup>354</sup> *Id.* at 35.

<sup>355</sup> *Id.* at 35.

<sup>356</sup> *Id.* at 35.

<sup>357</sup> *Id.* at 35.

<sup>358</sup> Jim Chen & Daniel J. Gifford, *Law as Industrial Policy: Economic Analysis in a New Key*, 25 UNIV. MEMPHIS L. REV. 1315 (1995).

<sup>359</sup> *Id.* at 1322.

<sup>360</sup> *Id.*

American industrial policy is a phenomenon that is vast in its reach, although it is seldom described as a matter of conscious, deliberate governmental choice. It is, in brief, “the aggregate of all laws, regulations, and other government actions that affect economic performance.”<sup>361</sup>

Structurally, the Constitution, in its Commerce Clause and its Dormant Commerce Clause powers, lays down foundational principles for American economic policy. Collectively, these constitutional provisions embody the decision to create among the States ““a national area of free trade among the several States.””<sup>362</sup> Federal statute law also helps to shape American industrial policy. Chen and Gifford point specifically to antitrust law and tax policy as instruments of industrial policy.<sup>363</sup> The right and responsibility of the government to make choices such as these, Chen and Gifford acknowledge, are not new. Rather, they have their origin in Alexander Hamilton’s Report on Manufactures, which proposed an “economic policy as a means of fostering industrialization.”<sup>364</sup>

As Chen and Gifford see it, in his program for the economic renewal of the United States, Hamilton articulated a grand unifying vision. Missing from much of the contemporary legal order, however, is this sense of unity. The Federal Reserve, for instance, influences the movement of wages and prices.<sup>365</sup> So also does American labor law, but the two fields effectively do not communicate and might even move at cross-purposes.<sup>366</sup> In the end, in their invocation of industrial policy, Chen and Gifford are seeking a return to a greater conscious awareness that policies in widely disparate areas of law should move as one towards a common goal. And that goal, they conclude grandly, must “lift poor and rich alike toward economic epiphany.”<sup>367</sup> How very Hamiltonian!

## VII. CONCLUSION

This Article essentially has two purposes. The first is a patient and thorough reconstruction of Hamilton’s Report on Manufactures. That

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<sup>361</sup> *Id.* at 1321.

<sup>362</sup> *Id.* at 1324 (quoting *Associated Industries v. Lohman*, 114 S. Ct. 1815, 1822 (1994)).

<sup>363</sup> *Id.* at 1325-1326.

<sup>364</sup> Chen & Gifford, *supra* note 358, at 1325.

<sup>365</sup> Chen & Gifford, *supra* note 358, at 1349-1352.

<sup>366</sup> Chen & Gifford, *supra* note 358, at 1352-1354.

<sup>367</sup> Chen & Gifford, *supra* note 358, at 1363.

Report, like all historical texts, is the product of a series of effectively unrepeatable circumstances and contingencies. The facts of Hamilton's biography surely played a role. Who he was, what he read, the play of personalities in George Washington's cabinet, all surely contributed to the Report's final form. So also did the state of world politics. Could Great Britain be trusted? Could France? How best to safeguard American independence in a competitive, exploitive world?

Hamilton was a man who had known vulnerability, viscerally and personally. How did that shape the Report? Then there is the intellectual milieu not only of Hamilton, but that of his principal rivals. What did Hamilton know? What did he think was important? And what were his plans for refuting or at least blunting his critics? Thomas Jefferson was fond of the physiocrats. How best to answer Jefferson, rhetorically and politically, without causing the whole enterprise to shipwreck? The Report's language, its tone, its arguments, its emphases, its careful editing, is in the end a mixture of all of these ingredients.

We have examined the Report on Manufactures with these questions in mind and have reconstructed at length Hamilton's arguments for an activist role for government in building and shepherding a new, industrializing America. But even the most careful reconstruction cannot answer all of the questions that I have posed. There are limits to our abilities to enter the minds of the Founders.

But the modern reader, when confronting texts from the Founding period, inevitably wants more than even the most painstaking reconstruction. They share the curiosity of Richard Brookhiser's interlocutors at that Park Avenue financial services event: What does Hamilton say to the modern world?

The instinct of the historian is to be circumspect in the face of such curiosity. Hamilton operated in a different universe of thought from today's world. Great Britain and France followed mercantilist principles in their trading practices. International trade, as it was understood among the European powers of Hamilton's day, was required to act as an adjunct of national policy and to serve as a projection of national strength. American trade policy, in the post-World-War-II period, until the last few years, moved along very different premises. It looked to lower trade barriers and to promote the freer movement of goods and services. Does Hamilton have anything to say to us, given these different mental universes?

But now, Brookhiser's conversation partners become a little insistent, if not irritated. "Well," they might mutter, "yes he does."

And the large second half of this Article – its second major purpose – is meant to respond to that insistence. Generations of Americans, and even some non-Americans, have sought to draw out those insights. We have examined a century-and-a-half long sampling of the many-faceted conversations that have occurred among historians, theorists, and even political actors over the meaning of Hamilton's Report. Henry Cabot Lodge and Arthur Vandenberg, both of them United States Senators, saw in Hamilton justification for a policy of high tariffs and protectionism. Broadus Mitchell and Nathan Schachner, an academic and a popular historian respectively, found in Hamilton's Report support for activist government and the robust welfare state of New-Deal and post-New-Deal America. Michael Lind looks to Hamilton as source and inspiration for neo-protectionist trade policies, while Christian Parenti finds in Hamilton's Report a congenial foundation for the truly breath-taking ambition of the Green New Deal.

Why, however, do scholars and advocates find it necessary to mine past texts to support present-day arguments? Partly, this practice is likely psychological. In venturing to put forward a new argument we always want the comfort of saying to ourselves, if not to others, that we are not alone in taking this stand. Others, great personages from the past, have made similar claims. An appeal to the authority of the past may or may not be convincing to others, but it gives us the reassuring feel of familiarity.

Yet another reason we find appeals to the past such a common part of our argumentative process lies in the system within which American lawyers and policy-makers operate. The Anglo-American legal order has always prized precedent, tradition, and intimacy with the past. Continuity is a virtue within the Anglo-American order; innovation, if not precisely a vice, is at least a suspect category. Whatever its flaws as an intellectual and interpretive discipline, originalism is at least an expression of this distinctively Anglo-American impulse.

Is there some cynicism in our appeals to the past? Some cherry-picking of favorable facts and data? Of course. Even the most virtuous, strongest-willed human being wants to win an argument. It is a temptation that is sometimes too great to resist. Certainly, many succumb to this weakness of the flesh. And the best defense against this allurements is to remind ourselves that we should treat even the dead with the dignity, and that means that we owe our sources the decency of dealing with them honestly.

So how might we regard Hamilton's Report? We have



contextualized it and explained its main arguments. We have examined its reception from the latter nineteenth century to the present. But does it speak to our concerns? Consider the legislative accomplishments of the 117<sup>th</sup> Congress, which concluded its work at the end of 2022. In November, 2021, the 117<sup>th</sup> Congress approved a bipartisan infrastructure bill that provided substantial funding for highway projects, water systems, and ports and harbors, among other initiatives.<sup>368</sup> In August, 2022, Congress passed the CHIPS and Science Act, allocating over \$280 billion to promote research into high-end computer technology and to return to America advanced semiconductor manufacturing.<sup>369</sup>

I could applaud the enactment of this legislative agenda, declaring it to be very much in the national interest. I don't need to say more than that. I could justify the bills with an appeal to their merits and my defense would be complete. But I could also take the additional step and say that by passing this legislation Congress has vindicated and updated its Hamiltonian legacy for a new era. What have I added by making this second statement?

I have at the very least attempted to give the legislation the rhetorical legitimacy of history. Alexander Hamilton is an important member of the Founding generation. People know who he is. He has a good public reputation. It is good to have him on your side, so to speak.

Have I done more than make a rhetorical move designed to reinforce my policy preferences? Unless I am being utterly cynical in drawing the association between these modern pieces of legislation and Hamilton's Report, I am making at least an implicit statement about the continuity of American law and American political institutions. Hamilton can, in some metaphorical sense, "speak" to Congress because it remains the same Congress, divided into upper and lower chambers, and bound by

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<sup>368</sup> Pub. L. No. 117-58, 135 Stat. 429 (2021). On its contents, see, for instance, Jonathan Ponciano, *Everything in the \$1.2 Trillion Infrastructure Bill: New Roads, Electric School Buses, and More*, FORBES (Nov. 15, 2021) (updated April 21, 2022); Brian Naylor & Deirdre Walsh, *Biden Signs the \$1 Trillion Bipartisan Infrastructure Bill into Law*, NPR (Nov. 15, 2021).

<sup>369</sup> Pub. L. No. 117-167, 136 Stat. 1366 (2022). On the bill's content, see, for instance: Emily Peck, *Can the U.S. Bring Chip Manufacturing Home?*, SLATE (Jan. 10, 2023); Sean Casten & Thomas Costabile, *The Time Is Now For Biden and Congress to Follow Through on CHIPS, Science, and Clean Energy*, THE HILL (Jan. 20, 2023); Mary Yang, *Can the CHIPS Act Put the U.S. Back in the Game?*, FOREIGN POL'Y (Aug. 26, 2022).

many of the same rules, as in the 1790s, when he submitted his Report in his capacity as Secretary of the Treasury, an office that, like the Congress, has remained continuous since the Founding.

But have I really yet satisfied those insistent questioners at Richard Brookhiser's Park Avenue event? It seems that they might have been searching for something more solid, something a bit more normative than what I have yet given them. They seem to want something on the order of: "If Hamilton were here, would he support the Infrastructure and the CHIPS bills?"

And there, if we are honest, we are left with guesswork. I am a supporter of these two bills. So, yes, I want to say that Hamilton would be supportive. But Brookhiser's audience is in a sense asking whether we can read Hamilton's mind more than two centuries after his death and say, yes, "we've got his vote!" I confess that I have trouble reading the minds of persons I know well. Although I think Hamilton would be supportive, that is in the end nothing but conjecture. We don't know. We can't know. Not for certain, anyways.

Finally, we must remind ourselves that we are not the last word. Our conversation with the sources is ongoing and open-ended. There will be others who come after us. They will have their concerns and worries, different from ours, perhaps even unrecognizable to us, and they will have their questions that they will want to put to the sources. And the genius of a document like Hamilton's Report on Manufactures is that it might even yield some answers.